

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

— — —

IN RE: NATIONAL : HON. DAN A.  
 PRESCRIPTION OPIATE : POLSTER  
 LITIGATION :  
 :  
 :  
 APPLIES TO ALL CASES : NO.  
 : 1:17-MD-2804  
 :

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

— — —

May 7, 2019

— — —

Videotaped deposition of PERRY FRI, taken pursuant to notice, was held at the offices of Baron & Budd, 600 New Hampshire Avenue, NW, Washington, D.C., beginning at 10:01 a.m., on the above date, before Michelle L. Gray, a Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter, and Notary Public.

— — —

GOLKOW LITIGATION SERVICES  
877.370.3377 ph | 917.591.5672 fax  
deps@golkow.com

1 APPEARANCES:

2

3 BARON & BUDD, P.C.  
4 BY: ROLAND TELLIS, ESQ.  
5 BY: STERLING CLUFF, ESQ.  
6 Encino Plaza  
7 15910 Ventura Boulevard  
8 Suite 1600  
9 Encino, California 91436  
10 (818) 839-2333  
11 Rtellis@baronbudd.com  
12 Scluff@baronbudd.com  
13 Representing the Plaintiffs

8

9 BRANSTETTER, STRANCH & JENNINGS, PLLC  
10 BY: MICHAEL G. STEWART, ESQ.  
11 223 Rosa L. Parks Avenue  
12 Suite 200  
13 Nashville, Tennessee 37203  
14 (615) 254-8801  
15 mstewart@bsjfirm.com  
16 Representing the Tennessee Plaintiffs

13

14 DAVIS POLK & WARDWELL, LLP  
15 BY: BRIAN S. WEINSTEIN, ESQ.  
16 BY: CRISTINA M. RINCON, ESQ.  
17 450 Lexington Avenue  
18 New York, New York 10017  
19 (212) 450-3037  
20 brian.weinstein@davispolk.com  
21 cristina.rincon@davispolk.com  
22 Representing HDA and the Witness

19

20 DECHERT, LLP  
21 BY: MELANIE MACKAY, ESQ.  
22 35 West Wacker Drive  
23 Suite 3400  
24 Chicago, Illinois 60601  
(312) 646-5800  
melanie.mackay@dechert.com  
Representing the Defendant, Purdue  
Pharmaceuticals

1 APPEARANCES: (Cont'd.)

2

BARNES & THORNBURG, LLP  
3 BY: WILLIAM A. HAHN, II, ESQ.  
11 South Meridian Street  
4 Indianapolis, Indiana 46204  
(317) 236-1313  
5 William.hahn@btlaw.com  
Representing the Defendant, H.D. Smith

6

7 REED SMITH, LLP  
BY: ANNE E. ROLLINS, ESQ.  
8 Three Logan Square  
1717 Arch Street, Suite 3100  
9 Philadelphia, Pennsylvania 19103  
(215) 851-8226  
10 arollins@reedsmith.com  
Representing the Defendant,  
11 AmerisourceBergen Drug Corporation

12

WILLIAMS & CONNOLLY, LLP  
13 BY: STEVEN M. PYSER, ESQ.  
BY: KATELYN ADAMS, ESQ.  
14 725 12th Street, NW  
Washington, D.C. 20005  
15 (202) 434-5148  
spyser@wc.com  
16 kadams@wc.com  
Representing the Defendant, Cardinal  
17 Health

18

ZUCKERMAN SPAEDER, LLP  
19 BY: KYLE A. CRAWFORD, ESQ.  
1800 M Street, NW  
20 Suite 1000  
Washington, D.C. 20036  
21 (202) 778-1825  
kcrawford@zuckerman.com  
22 Representing the Defendant, CVS

23

24

1 APPEARANCES: (Cont'd.)

2

JONES DAY

3 BY: SERGIO A. TOSTADO, ESQ.

325 John H. McConnell Boulevard

4 Suite 600

Columbus, Ohio 43215

5 (614) 281-3898

stostado@jonesday.com

6 Representing the Defendant, Walmart

7

COVINGTON & BURLING, LLP

8 BY: AMBER M. CHARLES, ESQ.

850 Tenth Street, NW

9 Suite 586N

Washington, D.C. 20001

10 (202) 662-5613

acharles@cov.com

11 Representing the Defendant, McKesson  
Corporation

12

13

14

15

16

17

18

19

20

21

22

23

24

1 TELEPHONIC/STREAMING APPEARANCES:  
2

3 BARON & BUDD, P.C.  
4 BY: JAY LICHTER, ESQ.  
5 BY: JEFFREY LIPINSKI, ESQ.  
6 BY: ALEX SHERMAN, ESQ.  
7 Encino Plaza  
8 15910 Ventura Boulevard  
9 Suite 1600  
10 Encino, California 91436  
11 (818) 839-2333  
12 jlichter@baronbudd.com  
13 jlipinski@baronbudd.com  
14 asherman@baronbudd.com  
15 Representing the Plaintiffs  
16

17 FOLEY & LARDNER, LLP  
18 BY: GREGORY N. HEINEN, ESQ.  
19 777 East Wisconsin Avenue  
20 Milwaukee, Wisconsin 53202  
21 (414) 297-5913  
22 Gheinen@foley.com  
23 Representing Anda, Inc.  
24

25 FOX ROTHSCHILD, LLP  
26 BY: ZACHARY MARTIN, ESQ.  
27 2700 Kelly Road  
28 Suite 300  
29 Warrington, Pennsylvania 18976  
30 (215) 918-3680  
31 Zmartin@foxrothschild.com  
32 Representing the Defendant, Prescription  
33 Supply Inc.  
34

1 TELEPHONIC/STREAMING APPEARANCES:  
(Cont'd.)

2

3 ARNOLD & PORTER KAYE SCHOLER, LLP  
4 BY: CAITLIN MARTINI MIKA, ESQ.  
70 West Madison Street  
Suite 4200  
5 Chicago, Illinois 60602  
(312) 583-2438  
6 caitlin.mika@arnoldporter.com  
Representing the Defendants, Endo  
7 Health Solutions; Endo Pharmaceuticals,  
Inc.; Par Pharmaceutical Companies, Inc.  
8 f/k/a Par Pharmaceutical Holdings, Inc.  
9

10 ROPES & GRAY LLP  
BY: GREGORY MALLOY, ESQ.  
800 Boylston Street  
11 Boston, Massachusetts 02199  
(617) 951-7234  
12 Gregory.malloy@ropesgray.com

13 - and -

14 ROPES & GRAY LLP  
BY: HAYDEN MILLER, ESQ.  
15 1211 Avenue of the Americas  
New York, New York 10036  
16 (212) 596-9303  
hayden.miller@ropesgray.com  
17 Representing the Defendant,  
Mallinckrodt

18

19 DECHERT, LLP  
BY: DANA MARTIN, ESQ.  
20 35 West Wacker Drive  
Suite 3400  
21 Chicago, Illinois 60601  
(312) 646-5800  
22 dana.martin@dechert.com  
Representing the Defendant, Purdue  
23 Pharmaceuticals  
24

1 TELEPHONIC/STREAMING APPEARANCES:  
(Cont'd.)

2  
3  
4 TUCKER ELLIS, LLP  
5 BY: JEFFREY M. WHITESELL, ESQ.  
6 950 Main Avenue, Suite 1100  
7 Cleveland, Ohio 44113  
8 (216) 696-2286  
9 Jeffrey.whitesell@tuckerellis.com  
10 Representing the Defendant, Janssen and  
11 Johnson & Johnson  
12

13  
14 BARTLIT BECK LLP  
15 BY: BRIAN C. SWANSON, ESQ.  
16 Courthouse Place  
17 54 West Hubbard Street  
18 Suite 300  
19 Chicago, Illinois 60654  
20 (312) 494-4440  
21 Brian.swanson@bartlit-beck.com  
22 Representing the Defendant, Walgreens  
23

24  
25 LOCKE LORD, LLP  
26 BY: ANNA K. FINGER, ESQ.  
27 2200 Ross Avenue  
28 Suite 2800  
29 Dallas, Texas 75201  
30 (214) 740-8445  
31 Anna.k.finger@lockelord.com  
32 Representing the Defendant,  
33 Henry Schein, Inc.  
34

35  
36 BAILEY WYANT PLLC  
37 BY: MICHAEL W. TAYLOR, ESQ.  
38 500 Virginia Street East  
39 Suite 600  
40 Charleston, West Virginia 25301  
41 (304) 345-4222  
42 Mtaylor@baileywyant.com  
43 Representing the Defendant, West Virginia  
44 Board of Pharmacy  
45

1 APPEARANCES: (Cont'd.)

2

3 ALSO PRESENT:

4

Elizabeth A. Gallenagh, Esq.  
5 (HDA)

6

VIDEO TECHNICIAN:

7 Dan Holmstock

8

LITIGATION TECHNICIAN:

9 James Beall

10

11

12

13

14

15

16

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2

THE VIDEOGRAPHER: We are

3

now on the record. My name is

4

Daniel Holmstock. I am the

5

videographer for Golkow Litigation

6

Services.

7

Today's date is May 7th,

8

2019. The time on the video

9

screen is 10:01 a.m.

10

This deposition is being

11

held at the law offices of Baron &

12

Budd, 600 New Hampshire Avenue

13

Northwest in Washington, DC, in

14

the matter of In Re National

15

Prescription Opiate Litigation.

16

It's pending before the

17

United States District Court for

18

the Northern District of Ohio,

19

Eastern Division.

20

Our deponent today is Perry

21

Fri, testifying in his personal

22

capacity and also in the 30(b)(6)

23

capacity of Healthcare

24

Distribution Alliance.

1 Counsel appearances will be  
2 noted on the stenographic record.

3 Our court reporter is  
4 Michelle Gray who will now  
5 administer the oath to the  
6 witness.

7 - - -

8 ... PERRY FRI, having been  
9 first duly sworn, was examined and  
10 testified as follows:

11 - - -

12 EXAMINATION

13 - - -

14 BY MR. TELLIS:

15 Q. Good morning, Mr. Fri.

16 A. Good morning.

17 MR. WEINSTEIN: So before we  
18 get started, just want to go on  
19 the record --

20 MR. TELLIS: Wait. Can I  
21 visit with him for a minute?

22 MR. WEINSTEIN: Actually,  
23 no. I want to put on the record  
24 what we talked about outside.

1 MR. TELLIS: You will. Let  
2 me introduce myself.

3 BY MR. TELLIS:

4 Q. Mr. Fri, I'm here to take  
5 your deposition. My name is Roland  
6 Tellis. We met briefly earlier. I  
7 represent the plaintiffs in this case.

8 MR. TELLIS: Now you can say  
9 what you want.

10 MR. WEINSTEIN: Great. So  
11 as we talked about outside,  
12 Mr. Fri is here both in his  
13 personal capacity and as a  
14 corporate rep. But he's in his  
15 corporate rep capacity only for  
16 Topics 1, 2, 12 and 13 and only  
17 insofar as it relates to  
18 committees that he was responsible  
19 for.

20 So if we don't object to  
21 scope to particular questions so  
22 as to avoid constantly  
23 interrupting, we are preserving  
24 our objections as to scope for

1           questions that go outside of those  
2           topics as just described.

3                   MR. TELLIS: I hear you. So  
4           noted.

5   BY MR. TELLIS:

6           Q.     Mr. Fri, I'm here --

7                   MR. PYSER: One other thing,  
8           Counsel, before you go on record,  
9           just the other thing that we spoke  
10          about. And this is Steve Pyser  
11          from Cardinal Health. While the  
12          orders from the court are clear as  
13          to parties, that an objection for  
14          one is an objection for all, just  
15          to avoid any confusion, the  
16          parties -- the plaintiffs and  
17          defendants agree that an objection  
18          from any party or nonparty such as  
19          counsel for the witness will be an  
20          objection for all for the record.

21                   MR. TELLIS: Yes. Agreed.  
22          Anyone else?

23   BY MR. TELLIS:

24          Q.     Okay. Mr. Fri, I'm here to

1 take your deposition. Have you been  
2 deposed before?

3 A. I have not.

4 Q. You have not. Okay. I'm  
5 sure your counsel has given you the rules  
6 of a deposition. But let me go over them  
7 in case there's anything that you don't  
8 understand.

9 A deposition is my  
10 opportunity to take your testimony under  
11 oath. Do you understand that?

12 A. Yes.

13 Q. The oath that you were  
14 administered moments ago is the same oath  
15 that you would be administered in a court  
16 of law. Do you understand that?

17 A. I do.

18 Q. And therefore, despite the  
19 fact that we are in a somewhat informal  
20 setting here in a conference room, your  
21 testimony would have the same weight as  
22 if it were given in a court of law. Do  
23 you understand?

24 A. I do.

1 Q. Okay. Everything that is  
2 being said here today is being  
3 transcribed, and for that reason it's  
4 important that we don't talk over one  
5 another because we're trying to get an  
6 accurate transcript. Okay?

7 A. Yes.

8 Q. It's also important not  
9 to --

10 A. I was waiting for you to  
11 stop.

12 Q. It's also important you give  
13 me an audible response. If you shake  
14 your head in one direction or another, it  
15 will make for an inaccurate transcript  
16 and we don't want an inaccurate  
17 transcript. Okay?

18 A. Okay.

19 Q. From time to time your  
20 counsel may make objections to questions  
21 I ask. He's doing so to protect the  
22 record. Unless he instructs you not to  
23 answer, I'm entitled to an answer to my  
24 question. I'll wait for one. Okay?

1 A. Yes.

2 Q. Okay. If you don't  
3 understand a question I've asked you,  
4 please let me know, and I'll do my best  
5 to try to help you.

6 The corollary to that is if  
7 you answer a question that I've asked  
8 you, I'm going to assume that you  
9 understood it. Okay?

10 A. Yes.

11 Q. All right. Any reason that  
12 you can't give me your best testimony  
13 today?

14 A. No.

15 Q. You on any medication that  
16 impacts your memory or your ability to  
17 testify truthfully today?

18 A. No.

19 Q. Okay. All right. Who is  
20 your employer?

21 A. Healthcare Distribution  
22 Alliance.

23 Q. I'm going to refer to that  
24 entity as the HDA for purposes of the

1 deposition today, okay?

2 A. Yes.

3 Q. When I do so, you'll  
4 understand who I'm referring to?

5 A. Yes.

6 Q. Okay. What is your current  
7 position with the HDA?

8 A. I'm the executive vice  
9 president of industry relations,  
10 membership and education, and the COO of  
11 the HDA Research Foundation.

12 Q. All right. I neglected to  
13 tell you, Mr. Fri, that from time to time  
14 if I ask you a question, you'll see me  
15 looking down at the screen. I assure you  
16 I'm listening to you. This just gives me  
17 a realtime feed of your answers. And  
18 it's easier for me to sometimes follow  
19 along if I'm looking down at the screen.

20 A. No problem.

21 Q. Okay. I mean no disrespect  
22 by not looking at you when you're talking  
23 to me. All right?

24 A. That's fine.

1           Q.     All right. How long have  
2     you been the COO of the HDA -- well, I  
3     take that back.

4                     How long have you been the  
5     executive vice president of industry  
6     relations, membership and education?

7           A.     Wow. I started working with  
8     HDA in 2006. My title changed to EVP of  
9     industry relations probably four or five  
10    years ago.

11          Q.     Four or five years ago, so  
12    roughly 2014, '15-ish?

13          A.     Yeah, I started as senior  
14    vice president of industry relations and  
15    gathered other positions along the way.

16          Q.     All right. We'll get into  
17    that, but right now I'm focused on your  
18    present title as EVP. Sure. You've held  
19    that for approximately five years?

20          A.     I believe so. I don't know  
21    for sure.

22          Q.     Okay. Generally speaking,  
23    what are your job responsibilities as  
24    EVP?

1           A.       I am responsible for the  
2       direction of the work that we do in the  
3       industry relations department, which is  
4       tied to technology, logistics, business  
5       processes around the efficiency and  
6       supply chain security. Responsible for  
7       our education programming, our membership  
8       development, and sponsorship.

9           Q.       And do you have a direct  
10      report?

11          A.       I have several direct  
12      reports.

13          Q.       Who do you report to?

14          A.       I'm sorry, I directly report  
15      to --

16          Q.       Yes.

17          A.       -- John Gray, our CEO.

18          Q.       Anyone else?

19          A.       No.

20          Q.       The HDA as we'll learn later  
21      today, has a number of councils, task  
22      forces, committees, working groups,  
23      right?

24          A.       Correct.

1 Q. Are you personally a member  
2 of any of those?

3 A. I'm not a member of any of  
4 those.

5 Q. Okay. You understand, sir,  
6 that you have been designated by the HDA  
7 as the person most qualified to testify  
8 on its behalf with -- with respect to  
9 certain topics?

10 A. I do.

11 Q. I'm going to mark as  
12 Exhibit 1 to this deposition, plaintiffs'  
13 deposition notice to the HDA.

14 (Document marked for  
15 identification as Exhibit  
16 HDA-Fri-1.)

17 BY MR. TELLIS:

18 Q. Mr. Fri, you understand per  
19 your counsel's statement earlier that you  
20 have been designated by the HDA to  
21 testify on its behalf with respect to  
22 Topics 1, 2, 12, and 13; is that right?

23 A. Yes.

24 Q. Okay. What did you do to

1 prepare for your testimony with respect  
2 to those topics?

3 A. I had a preparation session  
4 with our attorneys.

5 Q. That's the extent of it?

6 A. Yes.

7 Q. Did you meet with anyone --

8 A. No.

9 Q. -- at the HDA --

10 A. No.

11 Q. -- in preparation for your  
12 deposition?

13 A. No.

14 Q. Okay. Did you review the  
15 files of any employees --

16 A. No.

17 Q. -- in preparation for your  
18 deposition?

19 Okay. Did you review any  
20 deposition transcripts that weren't  
21 provided to you by counsel?

22 A. No.

23 Q. So the extent of your  
24 preparation for today was to meet with

1       your lawyers?

2               A.       Correct.

3               Q.       Okay.   And which lawyers did  
4       you meet with?

5               A.       I met with Brian and  
6       Cristina.

7               Q.       Okay.   And I take it then  
8       that you had no conversations with any  
9       members of the HDA in preparation for  
10      your deposition today or their counsel?

11              A.       I did not.

12              Q.       Other than the lawyers at  
13      Davis Polk, were there any other people  
14      present during your meetings?

15              A.       Our inside counsel.

16              Q.       Who is that?

17              A.       Elizabeth Gallenagh.

18              Q.       Okay.   Anyone else?

19              A.       No.

20              Q.       When did those meetings take  
21      place?

22              A.       Yesterday.

23              Q.       One time?   One meeting?

24              A.       Yes -- no.   One previous

1 meeting a couple of weeks ago. Very  
2 brief.

3 Q. How long did the meeting  
4 last yesterday?

5 A. All told, probably six  
6 hours.

7 Q. Okay. Mr. Fri, do you think  
8 there's an opioid abuse crisis in this  
9 country?

10 MR. WEINSTEIN: Objection to  
11 scope. Objection to form and  
12 foundation.

13 THE WITNESS: I don't know  
14 that I am in a position to answer  
15 that question.

16 BY MR. TELLIS:

17 Q. Why not?

18 A. It's not relative to my job.

19 Q. You are a human being,  
20 right, you pay attention to the news and  
21 whatnot?

22 A. No, that's not --

23 MR. WEINSTEIN: Objection to  
24 form and foundation. Beyond the

1 scope.

2 BY MR. TELLIS:

3 Q. You don't go through life  
4 with blinders on, right?

5 Is there a crisis in this  
6 country?

7 MR. WEINSTEIN: Same  
8 objections.

9 THE WITNESS: It depends on  
10 how you define it.

11 BY MR. TELLIS:

12 Q. You have been working with  
13 the Healthcare Distribution Alliance for  
14 almost 12 years and you don't know what  
15 opioid abuse crisis means?

16 MR. WEINSTEIN: Same  
17 objections.

18 THE WITNESS: Of course I  
19 know what an opioid abuse crisis  
20 is.

21 BY MR. TELLIS:

22 Q. Do we have one in this  
23 country?

24 MR. WEINSTEIN: Same

1 objections.

2 THE WITNESS: It's not my  
3 position to answer that.

4 BY MR. TELLIS:

5 Q. You can't answer it today?

6 A. I can't answer it today.

7 Q. Has the HDA ever looked into  
8 whether there's an opioid abuse crisis in  
9 this country?

10 MR. WEINSTEIN: Objection.  
11 Outside the scope. And objection  
12 to form. Go ahead.

13 THE WITNESS: That's out --  
14 yeah. Any discussions of that  
15 nature would be outside the  
16 typical work that I do.

17 BY MR. TELLIS:

18 Q. All right. So in your -- in  
19 your more than a decade's experience at  
20 HDA, you've never come to learn about  
21 whether or not the HDA ever looked into  
22 whether there was an opioid abuse crisis  
23 in this country?

24 A. Correct.

1           Q.     Okay.  You don't know what  
2     initiatives the HDA has ever taken to  
3     address the opioid abuse crisis in this  
4     country?

5           A.     I think that's a different  
6     question.  I think our members and our  
7     association have taken steps to find  
8     solutions across the supply chain to  
9     address the opioid crisis.

10          Q.     All right.  So you -- you  
11     believe there is one, because the HDA has  
12     taken steps to address it.

13          A.     It's not relative to me  
14     whether I believe there is one or not,  
15     but our members have taken steps to do  
16     that.

17          Q.     What does that mean it's not  
18     relative to -- to me?

19          A.     I'm not responsible of  
20     whether deciding there's an opioid crisis  
21     or not.

22          Q.     Do you have a belief?

23          A.     I -- I don't know that I  
24     have a belief.

1           Q.       You don't think that  
2       hundreds of thousands of people are dying  
3       from opioid addiction?

4           MR. WEINSTEIN:   Just to be  
5       clear, the total line of  
6       questioning is outside the scope.  
7       I won't object to each question.  
8       But you can answer.

9           THE WITNESS:   The -- the  
10      news reports would appear to  
11      support that.

12   BY MR. TELLIS:

13          Q.       You're here being deposed in  
14      litigation, right?

15          A.       I'm told, yes.

16          Q.       What is that litigation  
17      about?

18          A.       It's about opioid diversion  
19      and distribution.

20          Q.       Okay.   That caused what, any  
21      harm to people?

22          A.       Apparently it's caused harm  
23      to people.

24          Q.       Have you -- apparently?

1 Have you looked at the complaint or any  
2 legal documents?

3 A. I have not actually.

4 Q. So the extent of what you  
5 know about the case you're being deposed  
6 here today in is that apparently there's  
7 a problem out there that plaintiffs are  
8 trying to remedy?

9 A. I think plaintiffs and  
10 defendants are trying to remedy.

11 Q. Okay.

12 MR. WEINSTEIN: Object to  
13 form.

14 BY MR. TELLIS:

15 Q. Who are the plaintiffs in  
16 this case?

17 A. I understand them to be  
18 state and county and local  
19 municipalities.

20 Q. Okay. And what are the  
21 nature of their claims, do you know?

22 MR. WEINSTEIN: Objection to  
23 form. Foundation.

24 THE WITNESS: I -- I am not

1           fully aware of all that. I have  
2           not read the exact complaint.

3       BY MR. TELLIS:

4           Q.     Okay.

5           A.     It wouldn't be --

6           Q.     Do you know if they are  
7       seeking monetary relief, injunctive  
8       relief, other relief?

9                   MR. WEINSTEIN: Objection to  
10          form and foundation.

11                  THE WITNESS: My  
12          understanding is they are seeking  
13          financial relief.

14       BY MR. TELLIS:

15           Q.     For what?

16                  MR. WEINSTEIN: Same  
17          objections.

18                  THE WITNESS: Again, I don't  
19          know how much I know about the  
20          specifics of it. But my  
21          understanding is they're seeking  
22          financial relief to help with  
23          opioid addiction treatment.

24       BY MR. TELLIS:

1 Q. Okay. That lawsuit, does  
2 it -- did it come as a surprise to you?

3 MR. WEINSTEIN: Objection to  
4 form. Foundation and scope. It's  
5 a ridiculous question.

6 THE WITNESS: I don't know  
7 how to answer that.

8 BY MR. TELLIS:

9 Q. How did you learn about this  
10 litigation?

11 A. In the news, I would  
12 imagine. Yeah.

13 Q. You learned that the lawsuit  
14 had been filed by watching the news?

15 A. Reading the news.

16 Q. Reading the news, okay.

17 But in connection with your  
18 deposition today you've never looked at  
19 the complaint that was filed and the  
20 action captioned in the complaint on the  
21 deposition notice?

22 A. I've read elements of the  
23 deposition notice. I have not read the  
24 specific complaint for the litigation.

1 Q. Okay. All right. Does the  
2 HDA maintain a website?

3 A. Yes.

4 Q. Who's responsible for the  
5 content on that website?

6 A. Our marketing and  
7 communications department.

8 Q. And do you have any input  
9 into the content?

10 A. Some.

11 Q. What is your role vis-à-vis  
12 the content that goes onto the website?

13 A. Anything that might have to  
14 do with education content or member  
15 recruitment or sponsorship programs,  
16 things that report up to my departments,  
17 I would have ultimate responsibility for.

18 Q. Okay. Have you ever gone  
19 onto the HDA's website?

20 A. I have.

21 Q. Have you looked at various  
22 aspects of its pages, for lack of a  
23 better word, things like the vision and  
24 the mission and values and that sort of

1       thing?

2                   A.       I have.

3                   Q.       Okay. And there isn't  
4       anything in there that you would expect  
5       to be misleading, right?

6                   A.       Correct.

7                   Q.       Okay. You expect the HDA  
8       would have accurate content on its  
9       website reflecting accurately what its  
10      vision and missions and councils and  
11      committees, and that sort of thing,  
12      right?

13                  A.       Correct.

14                  Q.       Okay. Does the HDA  
15      membership play any role in the content  
16      of the HDA's website?

17                         MR. WEINSTEIN: Objection to  
18      form.

19                         THE WITNESS: Not directly.

20      BY MR. TELLIS:

21                  Q.       Okay. The HDA doesn't run  
22      the content of its website by its members  
23      before publishing it?

24                  A.       No.

1 Q. Okay. Who is the head of  
2 the marketing group that you mentioned  
3 who was responsible for the content?

4 A. John Parker.

5 Q. Do you know what his title  
6 is?

7 A. John is senior vice  
8 president of marketing and  
9 communications -- or communications and  
10 marketing. Maybe just communications.

11 Q. Okay. Let's look at  
12 Exhibit 2.

13 (Document marked for  
14 identification as Exhibit  
15 HDA-Fri-2.)

16 BY MR. TELLIS:

17 Q. I want to show you what we  
18 were able to download off the internet as  
19 an early iteration of the HDA's website  
20 under its heading "Vision and Values,"  
21 circa 2006-ish when you joined. Okay?

22 A. Mm-hmm.

23 Q. Now --

24 MR. WEINSTEIN: Is there

1 anything on here that shows that  
2 it's 2006?

3 MR. TELLIS: Well, it says  
4 copyright '04 in the bottom  
5 right-hand corner but I can tell  
6 you that --

7 MR. CLUFF: In the web  
8 address, you can see down at the  
9 bottom it says 2006/01/04. That's  
10 the date that we pulled this from  
11 the web archives.

12 MR. WEINSTEIN: Okay. Thank  
13 you.

14 BY MR. TELLIS:

15 Q. So first of all, it says  
16 HDMA in the top left-hand corner,  
17 Healthcare Distribution Management  
18 Association. Do you recognize that as  
19 the sort of predecessor name to the HDA?

20 A. I do.

21 Q. What -- was it known as the  
22 HDMA when you joined in 2006?

23 A. It was.

24 Q. And what was the reason for

1 the name change?

2 A. We felt like the word  
3 "management" was sort of past its prime.  
4 And it was near our -- I think it was  
5 near our -- an anniversary -- a big  
6 anniversary, so we timed it with a  
7 change.

8 Q. So you went from Healthcare  
9 Distribution Management Association to  
10 Alliance?

11 A. Correct.

12 Q. And the alliance was between  
13 whom?

14 MR. WEINSTEIN: Objection to  
15 form.

16 THE WITNESS: The alliance  
17 is among the distributors, but  
18 implies our ability to work across  
19 the supply chain on various  
20 issues.

21 BY MR. TELLIS:

22 Q. Okay. Were you involved in  
23 the decisionmaking that went into the  
24 name change?

1           A.       I was in some top level  
2       discussions as an executive management  
3       team. But that was ultimately driven by  
4       our communications department.

5           Q.       Okay. When you say the word  
6       management association was past its  
7       prime, what did you mean by that?

8           A.       I said the word "management"  
9       is past its prime.

10          Q.       You did. What does that  
11       mean?

12          A.       No one really understood  
13       what distribution management was.  
14       Actually, I mean, the H -- the HDMA name  
15       was what we changed to after NWDA, so if  
16       you want to go for a long ride, we can go  
17       back there.

18                   But that we were -- I'm told  
19       that we were trying to be HDA from the  
20       beginning, but that was -- there was a  
21       minor conflict with another organization  
22       called HIDA, H-I-D-A, which represented  
23       medical-surgical wholesalers in roughly  
24       the same space. And somehow we ended up

1 at HDMA.

2 Q. Okay.

3 A. That was before my time.

4 Q. So the predecessor name to  
5 HDMA was the National Wholesale Druggist  
6 Association?

7 A. Correct.

8 Q. Okay. And do you know when  
9 that name changed to HDMA?

10 A. I don't.

11 Q. Do you know the reason for  
12 that change?

13 A. Again, I think "wholesale  
14 druggist" was not a term of art any  
15 longer.

16 Q. Okay. But essentially the  
17 same organization, just name changes?

18 A. Correct.

19 Q. Okay. All right. So it  
20 appears that at least as of 2006 when you  
21 joined, that the HDMA had under its  
22 website page "Vision and Values," the  
23 idea in the first sentence, that it, "Has  
24 worked with members to secure a safe,

1 efficient, and reliable healthcare  
2 distribution system," right?

3 A. Correct.

4 Q. And you would agree with me  
5 that as of 2006, safety was an important  
6 value for the HDA, drug safety?

7 A. Supply chain safety.

8 Q. And do you know whether this  
9 vision or values changed at all during  
10 your tenure at the HDA?

11 A. I think we've evolved the  
12 messaging. I can't -- or the words  
13 maybe. I can't recall off the top of my  
14 head, but I would say that our -- we've  
15 remained consistent around safe,  
16 efficient, and reliable.

17 Q. Okay. And in the second  
18 sentence at the top, it says, "HDMA  
19 members are responsible for ensuring that  
20 billions of units of medication are  
21 safely delivered to tens of thousands of  
22 retail pharmacies, hospitals, nursing  
23 homes, clinics and other provider sites  
24 in all 50 states in the most efficient

1 manner possible."

2 Right?

3 A. Correct.

4 Q. And that's what the HDA  
5 believed as of the time that you joined,  
6 right?

7 A. Correct.

8 (Document marked for  
9 identification as Exhibit  
10 HDA-Fri-3.)

11 BY MR. TELLIS:

12 Q. Exhibit 3. I'm going to  
13 show you the most current iteration of  
14 this value statement on the HDA's  
15 website. I'm going to show you what is  
16 from the missions and values page on the  
17 HDA's current website. Have you ever  
18 seen that before today?

19 A. I have.

20 Q. Does that reflect an  
21 accurate description of the HDA's current  
22 mission and value statement?

23 A. I believe it does.

24 Q. And so under the bold

1 heading, "Mission Statement," the HDA  
2 believes that its mission and value is to  
3 protect patient safety and access to  
4 medicines through the safe and efficient  
5 distribution of healthcare products and  
6 services, right?

7 A. Correct.

8 (Brief telephonic  
9 interruption.)

10 MR. CLUFF: Over the phone,  
11 can you hear us?

12 MR. MALLOY: Yeah.

13 (Whereupon, a discussion was  
14 held off the record.)

15 BY MR. TELLIS:

16 Q. So it's safe to say,  
17 Mr. Fri, that at least with respect to  
18 the public perception of visitors to this  
19 website, the HDA is proud of publishing  
20 the fact that its mission statement is to  
21 protect patient safety through the safe  
22 and efficient distribution of healthcare  
23 products and services, right?

24 A. Correct.

1 MR. WEINSTEIN: Objection to  
2 form.

3 BY MR. TELLIS:

4 Q. Okay. So now given this  
5 commitment to safety that the HDA has  
6 articulated, has -- has the HDA supported  
7 measures over the years to prevent or  
8 curb opioid abuse?

9 A. Prevent or curb. I believe  
10 so.

11 Q. You believe so? Give me an  
12 example of what you're talking about.

13 MR. WEINSTEIN: Obviously  
14 this -- all this is outside the  
15 scope.

16 THE WITNESS: Yeah.

17 MR. WEINSTEIN: So I'm  
18 trying not to interrupt question  
19 by question.

20 THE WITNESS: Well, and --  
21 and the work that we do in that  
22 area is not work that is in my  
23 responsibility area.

24 BY MR. TELLIS:

1           Q.       I understand that. But you  
2       just told me that you believe that the  
3       HDA has supported measures over the years  
4       to prevent or curb opioid abuse. So tell  
5       me what you're talking about.

6           A.       So we support Allied --  
7       Allied Against -- AAOA, Allied Against  
8       Opioid Abuse, which helps educate  
9       patients about the dangers of opioid  
10      addiction and safe disposal of medicines.

11          Q.       And when did that initiative  
12      start?

13          A.       It's been in the last -- I  
14      don't know specifically, but it's been  
15      recently. The last couple years.

16          Q.       Let's go back from when you  
17      started at the HDA, 2006 to -- through,  
18      let's say, 2015. Can you think of an  
19      initiative that the HDA supported to  
20      prevent or curb opioid abuse?

21                   MR. WEINSTEIN: Objection to  
22                   scope.

23                   THE WITNESS: Not  
24                   specifically.

1 BY MR. TELLIS:

2 Q. And so what -- what is the  
3 -- what's the basis for the statement  
4 that HDA has as a part of its mission to  
5 protect patient safety?

6 MR. WEINSTEIN: Objection to  
7 scope.

8 THE WITNESS: HDA, and  
9 particularly in my area, is  
10 committed to supply chain safety  
11 and security.

12 So we advance technologies  
13 and logistics practices and  
14 business processes that support  
15 the safe distribution of and  
16 handling of all medicines that we  
17 ship. We don't specifically call  
18 out opioids separately from others  
19 in that capacity.

20 BY MR. TELLIS:

21 Q. I'm going to show you what  
22 I'm going to mark as Exhibit 5 (sic).

23 (Document marked for  
24 identification as Exhibit

1 HDA-Fri-4.)

2 BY MR. TELLIS:

3 Q. Do you know who Matthew  
4 DiLoreto is?

5 A. I know who Matthew DiLoreto  
6 is, yes.

7 Q. Who is Matthew DiLoreto?

8 A. He's a vice president of our  
9 state government affairs department.

10 Q. And who is Beth Mitchell?

11 A. I do not know.

12 Q. Does the HDA and it -- and  
13 its employees communicate by e-mail as  
14 part of the ordinary course of business?

15 A. Yes.

16 Q. Okay. And HDA.org is the  
17 domain that is used?

18 A. Currently, yes.

19 Q. Let me show you what I'm  
20 marking as Exhibit 5 which is an e-mail  
21 to -- excuse me, Exhibit 4, which is an  
22 e-mail exchange between Matthew DiLoreto  
23 and Beth Mitchell of AmerisourceBergen  
24 Bates numbered HDA\_MDL\_000214979 through

1 982.

2 Let me know when you've had  
3 a chance to review.

4 A. Sure. I have -- I have  
5 reviewed it largely.

6 Q. So you recognize this as an  
7 e-mail exchange between Beth Mitchell at  
8 AmerisourceBergen and Matthew DiLoreto at  
9 the HDA regarding opioids?

10 MR. WEINSTEIN: Objection to  
11 form.

12 THE WITNESS: It's about  
13 opiate approaches in the States.

14 BY MR. TELLIS:

15 Q. And what is --

16 MR. WEINSTEIN: I object to  
17 scope obviously, with respect to  
18 this document.

19 But you can go ahead.

20 BY MR. TELLIS:

21 Q. The e-mail is referring to a  
22 memorandum in support that the HDA was  
23 authoring with respect to a particular  
24 initiative in -- in the -- in the state

1 of New York, right, with respect to  
2 opioids?

3 A. That's what it says.

4 Q. Okay. And in the top  
5 paragraph it says, second sentence,  
6 "Between you and I, I totally agree we  
7 need to begin openly supporting some  
8 measures rather than always opposing  
9 them. We're going to support the  
10 governor's opioid abuse package in CT,  
11 but it moved before we could even get a  
12 letter out. Bottom line is I talked with  
13 both Patrick and Liz and they cannot  
14 recall any time that we openly and  
15 publicly supported an opioid abuse  
16 prevention measure."

17 Do you see that?

18 A. I do.

19 Q. Do you know who Patrick and  
20 Liz are?

21 A. I do.

22 Q. Who is Patrick?

23 A. Patrick Kelly is our  
24 executive vice president of government

1       affairs.

2                       And I assume your next  
3       question would be Liz. That's Elizabeth  
4       Gallenagh, our inside counsel.

5               Q.       Does this sentence come as a  
6       surprise to you?

7                       MR. WEINSTEIN: Objection to  
8       form. Objection to scope.

9                       THE WITNESS: This is not  
10       even in any area that I work.

11       BY MR. TELLIS:

12               Q.       Okay. But does it come as a  
13       surprise to you that, according to  
14       Patrick and Liz, the HDA has never openly  
15       and publicly supported an opioid abuse  
16       prevention measure?

17                       MR. WEINSTEIN: Objection to  
18       form, foundation, and scope.

19                       THE WITNESS: I -- I don't  
20       have an opinion.

21       BY MR. TELLIS:

22               Q.       Okay. Is there a group  
23       within the HDA that has, as part of its  
24       responsibility, public initiatives like

1       this to support legislative measures  
2       relating to opioids?

3               A.       If it's related to  
4       legislative measures it would take part  
5       in our government affairs department.

6               Q.       Okay. And who is the head  
7       of that?

8               A.       Patrick Kelly.

9               Q.       You would agree with me,  
10      Mr. Fri, that the part of the HDA's  
11      purpose is to help its members maximize  
12      their business profits, right?

13               MR. WEINSTEIN: Objection to  
14      form, foundation, and scope.

15               THE WITNESS: No, I would  
16      never have had that discussion  
17      with a member.

18      BY MR. TELLIS:

19               Q.       You don't think that falls  
20      within the -- the core purpose of the  
21      HDA?

22               A.       I don't think it --

23               MR. WEINSTEIN: Same  
24      objections.

1 THE WITNESS: Profitability  
2 I don't think is an area where we  
3 spend a lot of time promoting.

4 (Document marked for  
5 identification as Exhibit  
6 HDA-Fri-5.)

7 BY MR. TELLIS:

8 Q. Let's take a look at  
9 Exhibit 6 -- Exhibit 5. Excuse me.  
10 It's the portion of the  
11 HDA's website entitled "About." And it's  
12 under the heading "History."

13 A. Mm-hmm.

14 Q. Have you seen that page  
15 before?

16 A. I have.

17 Q. What is this supposed to be  
18 describing?

19 A. This is a history better  
20 written than the distribution I gave you  
21 of the changes in the HDA over time from  
22 the NWDA to where we are today.

23 Q. Okay. So this document  
24 accurately reflects the sort of -- the

1 history and purpose of the various  
2 iterations of the name of what's now  
3 known as the HDA?

4 MR. WEINSTEIN: Objection to  
5 form. Foundation. Scope.  
6 Objection to scope more broadly as  
7 to the website, but go ahead.

8 THE WITNESS: This is a  
9 history of HDA, presented and  
10 prepared for our anniversary.

11 BY MR. TELLIS:

12 Q. And in that second paragraph  
13 it says, "The first" -- "This first  
14 industry meeting was called by Augustus  
15 Kiefer to 'remedy the existing evils in  
16 the wholesale drug business and enable  
17 the merchants to carry on business on a  
18 more profitable basis.'" That was the  
19 core principles governing this  
20 organization, right?

21 MR. WEINSTEIN: Objection to  
22 form. Mischaracterizes the  
23 document.

24 THE WITNESS: That's taken

1           from old minutes, and that was  
2           apparently how he referred to the  
3           calling of the first meeting.

4       BY MR. TELLIS:

5           Q.       That's what it says, right?

6           A.       Yeah, that's what it says.

7           Q.       And then the next page at  
8       the top, it says, "Throughout the years,  
9       NWDA continued to advocate on behalf of  
10      the distribution industry and the safety,  
11      efficiencies, and cost savings  
12      distributors bring to the pharmaceutical  
13      supply chain." Right?

14          A.       Correct.

15          Q.       And that was part of the  
16      core advocacy mission that HDA and its  
17      predecessors had, right?

18          A.       Correct.

19          Q.       Okay. I just want to go  
20      back to that current day mission and  
21      values document, Exhibit 3. Are you with  
22      me?

23          A.       I am.

24          Q.       Page 2. Under values, there

1 are five bullet points, right?

2 A. Yes.

3 Q. And those are accurately  
4 stated as the core values of the HDA as  
5 they exist today?

6 A. I believe so.

7 Q. Okay. First one is a  
8 commitment to the members, right?

9 A. Yes.

10 Q. Because they're a vital link  
11 in healthcare, right?

12 A. Yes.

13 Q. The third one is  
14 collaborators. That's what it says,  
15 right?

16 A. Mm-hmm.

17 Q. We strive to create an  
18 environment where knowledge can flow  
19 freely and our members can work together  
20 to achieve common goals, right?

21 A. Correct.

22 Q. And that's a -- so the HDA  
23 is a -- is a vehicle for the free flow of  
24 information among the distributors; is

1       that fair?

2                       MR. WEINSTEIN:  Objection to  
3                       form.

4                       THE WITNESS:  For the free  
5                       flow of information that is  
6                       appropriately discussed under  
7                       antitrust law and is applicable to  
8                       the work that we do, yes.

9       BY MR. TELLIS:

10               Q.       Okay.  Allows them to work  
11               together to achieve a common goal, right?

12               A.       Correct.

13               Q.       And the members as being  
14               referred to here includes more than just  
15               the distributors, right?

16                       MR. WEINSTEIN:  Objection to  
17                       form.

18                       THE WITNESS:  We advocate  
19                       specifically on behalf of our  
20                       distributors.  But in the industry  
21                       relations area, the discussion, we  
22                       include manufacturers as our  
23                       members.

24       BY MR. TELLIS:

1           Q.       Well, the statement here  
2       that our members can work together to  
3       achieve a common goal is referring to all  
4       of the HDA's members, right?

5                   MR. WEINSTEIN:  Objection to  
6       form --

7                   THE WITNESS:  Right.

8                   MR. WEINSTEIN:  -- and  
9       foundation.

10       BY MR. TELLIS:

11           Q.       And that would include, for  
12       example, the opioid manufacturers that  
13       are members of the HDA?

14                   MR. WEINSTEIN:  Same  
15       objections, and objection to  
16       scope.

17                   THE WITNESS:  It would.

18       BY MR. TELLIS:

19           Q.       Okay.  The last bullet point  
20       says, "We manage our members' resources  
21       as our own."

22                   What does members' resources  
23       mean in that context?

24                   MR. WEINSTEIN:  Objection to

1 foundation.

2 THE WITNESS: Fiscal  
3 responsibility.

4 BY MR. TELLIS:

5 Q. This means we treat our  
6 members' money like it is our own?

7 MR. WEINSTEIN: Objection to  
8 form. Foundation. Scope.

9 THE WITNESS: It means we  
10 pay attention to our budget and  
11 what we're focusing our resources  
12 on.

13 BY MR. TELLIS:

14 Q. Okay. That's because your  
15 budget is financed by the members?

16 A. It is. In different ways,  
17 but yes.

18 Q. Let's just talk about --  
19 help me understand how the HDA is  
20 organized.

21 So you have so-called  
22 internal employees of HDA, right?

23 A. Correct.

24 Q. And how many of those are

1       there?

2               A.       32.

3               Q.       Okay. And then you've  
4       got -- are there external folks who  
5       provide services for HDA like consultants  
6       and the like?

7                       MR. WEINSTEIN: Objection to  
8       form.

9                       THE WITNESS: We  
10       occasionally hire consultants.

11       BY MR. TELLIS:

12               Q.       Okay. Is there anyone who's  
13       not a member that populates the HDA's  
14       committees, councils, task force, working  
15       groups, that sort of thing?

16               A.       No.

17               Q.       Okay. Those are typically  
18       populated by its members, not --

19               A.       HDA's members.

20               Q.       HDA's members. Okay. And  
21       the HDA's employees run the organization?

22               A.       Right. Staff the  
23       committees.

24               Q.       Okay. And so the HDA

1 currently has a board of directors?

2 A. Correct.

3 Q. And it also has an executive  
4 committee?

5 A. Correct.

6 Q. What is the relationship  
7 between those two entities? Which one  
8 reports to whom?

9 A. The board and the executive  
10 committee have slightly different  
11 responsibilities, but the executive  
12 committee is strategic and fiscally  
13 focused and the board is more broadly  
14 issue-focused.

15 Q. And on a hierarchal  
16 structure is the board of directors above  
17 the executive committee?

18 A. I would put the executive  
19 committee above the board.

20 MR. WEINSTEIN: Objection to  
21 scope as to this line of  
22 questions, but go ahead.

23 BY MR. TELLIS:

24 Q. Has the HDA always had an

1 executive committee since you've been  
2 there?

3 A. Since I've been there, yes.

4 Q. Okay. Does the -- does the  
5 executive committee make recommendations  
6 to the board of directors?

7 MR. WEINSTEIN: Objection to  
8 form.

9 THE WITNESS: Occasionally.  
10 BY MR. TELLIS:

11 Q. Are those recommendations  
12 always accepted?

13 MR. WEINSTEIN: Objection to  
14 form. Foundation.

15 THE WITNESS: In my  
16 experience, the thinking among the  
17 executive committee and board is  
18 fairly consistent.

19 BY MR. TELLIS:

20 Q. Okay. Does the executive  
21 committee make recommendations to  
22 councils or committees within the HDA?

23 MR. WEINSTEIN: Objection to  
24 form. Foundation.

1 THE WITNESS: Occasionally.

2 In fact, rarely, actually.

3 BY MR. TELLIS:

4 Q. Rarely does the executive  
5 committee make recommendations to the  
6 councils and committees?

7 A. Correct.

8 Q. Okay. Let's look at  
9 Exhibit 7 (sic).

10 MR. TELLIS: I want the  
11 document entitled councils and  
12 committees.

13 BY MR. TELLIS:

14 Q. While he's getting that out,  
15 how are the board of directors elected  
16 within the HDA?

17 A. You have a relatively few  
18 number of members. And so -- of  
19 distributor members. So all distributor  
20 members are invited to have a seat on the  
21 board of directors. Most of them choose  
22 to accept that seat, but not all of them.

23 Q. So how many seats are there  
24 on the HDA's board of directors today?

1 MR. WEINSTEIN: Objection to  
2 form.

3 THE WITNESS: I -- I don't  
4 know the specific answer to that.

5 BY MR. TELLIS:

6 Q. Okay. But it's -- is it  
7 your understanding that at least the big  
8 three, McKesson, AmerisourceBergen,  
9 Cardinal, hold seats on the HDA's board  
10 of directors?

11 A. Our three publicly held  
12 companies do hold seats on the board.

13 Q. Can you think of the names  
14 of other members of the board of  
15 directors?

16 A. The names of people or  
17 companies?

18 Q. Companies.

19 A. Of course.

20 Q. Tell me the ones you know.

21 A. HD Smith, Morris and  
22 Dickson, CuraScript, Value Drug, Mutual  
23 Drug, Louisiana Wholesale, Prescription  
24 Supply, Capital Wholesale.

1 I can't -- I can't remember  
2 them all.

3 Q. Okay. And when you said --

4 A. They are on our website  
5 though.

6 Q. The distributor members are  
7 all invited to have a seat on the board  
8 of directors?

9 A. Correct.

10 Q. Okay. How about  
11 manufacturers?

12 A. They are not.

13 Q. Okay. How do manufacturers  
14 get a seat on the board of directors of  
15 the HDA?

16 MR. WEINSTEIN: Objection to  
17 form and foundation.

18 THE WITNESS: They can't.

19 BY MR. TELLIS:

20 Q. They can't. And is there a  
21 reason for that?

22 MR. WEINSTEIN: Objection to  
23 form. Foundation.

24 THE WITNESS: Yeah, it's

1                   written into our bylaws.

2       BY MR. TELLIS:

3                   Q.       Okay.  What's the -- what's  
4       the policy reason behind it or what's  
5       the --

6                   A.       We are an advocacy  
7       organization for government affairs, on  
8       the outside house for wholesale  
9       distributors.  So they are the only ones  
10      that participate in the governance of the  
11      organization.

12                  Q.       Okay.  And does the board of  
13      directors have a say in who populates the  
14      council or committee, a task force or  
15      working group?

16                         MR. WEINSTEIN:  Objection to  
17      form.

18                         THE WITNESS:  I suppose they  
19      could, but they don't typically  
20      have a unique say in that.

21      BY MR. TELLIS:

22                  Q.       Okay.  Do they provide any  
23      direction to any of the councils,  
24      committees, or task forces?

1 MR. WEINSTEIN: Objection to  
2 form.

3 THE WITNESS: I don't recall  
4 last time they gave specific  
5 direction to a --

6 BY MR. TELLIS:

7 Q. How often do they meet as a  
8 board?

9 A. Twice a year.

10 Q. Okay. How many members are  
11 there of the HDA's executive committee?

12 A. Seven.

13 Q. And who are they?

14 A. AmerisourceBergen, Cardinal  
15 Health, McKesson, Louisiana Wholesale,  
16 Morris and Dickson, Value Drug. Who am I  
17 missing? And Dakota Drug.

18 Q. And how does a company  
19 become a member of the HDA's board of  
20 directors?

21 MR. WEINSTEIN: Objection.  
22 You mean executive committee?

23 MR. TELLIS: I'm sorry.

24 Thank you.

1 BY MR. TELLIS:

2 Q. Executive committee?

3 A. I caught that. They are  
4 nominated by the executive committee. So  
5 they would nominate someone from the  
6 board of directors to be on the executive  
7 committee, I think.

8 Q. Okay. I'm confused. How  
9 does someone become a member of the  
10 executive committee of the HDA?

11 MR. WEINSTEIN: To be clear,  
12 there is an objection to scope to  
13 this whole line of questions, but  
14 go ahead.

15 THE WITNESS: Yeah, I mean  
16 that's -- that's a responsibility  
17 of our CEO and chairman under the  
18 governance of our bylaws. But I  
19 believe it is a nomination of our  
20 executive committee members.  
21 If -- if there's an open space, a  
22 nomination that would be put to  
23 the board for a vote for a  
24 replacement person on the

1 executive committee.

2 BY MR. TELLIS:

3 Q. I see. And are -- is that  
4 nomination only available to  
5 distributors?

6 A. Yes.

7 Q. For the same reasons as the  
8 board?

9 A. Yes.

10 Q. Okay. This is the document  
11 I was looking for.

12 (Document marked for  
13 identification as Exhibit  
14 HDA-Fri-6.)

15 BY MR. TELLIS:

16 Q. I've shown you a section of  
17 the HDA's website entitled "Councils and  
18 Committees." Take a second to flip  
19 through that.

20 It says in the first  
21 paragraph, "HDA has a variety of standing  
22 or special councils, committees, and task  
23 forces that operate at the direction of  
24 its board of directors to help the

1 alliance and its members achieve the  
2 goals of the organization."

3 Do you see that?

4 A. Correct.

5 Q. So the board of directors  
6 direct the work of the standing or  
7 special councils, committees, and task  
8 forces?

9 MR. WEINSTEIN: Objection to  
10 form.

11 THE WITNESS: They  
12 essentially impanel the ability to  
13 put the councils and task forces  
14 in place. But we work with our  
15 members and the staff to populate  
16 any task forces, working groups,  
17 committees or councils.

18 BY MR. TELLIS:

19 Q. Okay. And can you -- can  
20 you tell me in general terms if you know  
21 what the difference between a council and  
22 a committee and a task force is?

23 A. Yeah.

24 Q. What is -- what is it?

1           A.       It's more -- I mean, I guess  
2       it's more structural in -- in a way.

3                   The council -- in our case  
4       we have a public policy council on the  
5       government affairs. We have an industry  
6       relations council on the industry side.  
7       Those would be sort of -- those that are  
8       groups that all the work in those two  
9       areas ultimately sort of roll up to.

10                   The committee is usually a  
11       standing committee, a group that might  
12       meet regularly. A task force or a  
13       working group is more devoted to a -- a  
14       specific task or project.

15           Q.       And so is it -- is it sort  
16       of based on a reporting or hierarchy  
17       structure where task forces report to  
18       committees and committees report to  
19       council?

20           A.       It would be easiest to draw  
21       it that way. And in some cases there are  
22       kind of direct communications. But it's  
23       not necessarily that there is a task  
24       force that is then required to report to

1 a committee that then is required to  
2 report to a counsel.

3 Q. Okay. Are there  
4 restrictions on who can be a member of a  
5 council, a committee or a task force?

6 A. The only restriction is  
7 anything on the government affairs side,  
8 you can only be a distributor member.

9 On the industry relations  
10 side you can be a manufacturer or a  
11 distributor member.

12 And then on task forces or  
13 working groups, depending on the subject  
14 matter, we may include what we call  
15 service providers. And those are  
16 consultants or technology company --  
17 companies or system vendors or something  
18 of that nature.

19 Q. Okay. And to your  
20 knowledge, do the big three distributors  
21 have folks in each of the councils,  
22 committees, and task forces?

23 A. I would say that our large  
24 publicly held companies have the most

1 resources of our distributor members and  
2 are able to participate most heavily in  
3 the bulk of our committees and task  
4 forces and councils, and so on.

5 Q. Okay. Does this -- does  
6 this document accurately reflect the role  
7 or description of what each of the  
8 councils, committees, and task forces  
9 do --

10 MR. WEINSTEIN: Objection to  
11 form and foundation.

12 BY MR. TELLIS:

13 Q. -- for the HDA?

14 MR. WEINSTEIN: Objection.  
15 Form, foundation, and scope.

16 THE WITNESS: For the  
17 committees and task forces that  
18 are under my purview, I believe  
19 they do.

20 BY MR. TELLIS:

21 Q. Which ones are under your  
22 purview?

23 A. Industry relations council;  
24 business technology committee, which is

1 not currently active; health, beauty and  
2 wellness committee; logistics and  
3 operations committee, which is not  
4 currently active; bar code task force;  
5 E-commerce task force; emergency  
6 preparedness is not currently active;  
7 returns task force, which is only  
8 recently not currently active; the ASN  
9 work group is not currently active; and  
10 then the contracts and chargebacks work  
11 group.

12 Q. So when I say the word "HDA  
13 staff contact," and it has your name next  
14 to it, it's a pretty good indication that  
15 that's a work group, task force, or  
16 council that falls within your  
17 jurisdiction?

18 A. I'd say that's a safe  
19 assumption.

20 Q. Okay. And who's Anita  
21 Ducca?

22 A. Anita Ducca works in our  
23 regulatory affairs department.

24 Q. And so she has

1 responsibility over the regulatory  
2 affairs committee?

3 MR. WEINSTEIN: Objection to  
4 form.

5 THE WITNESS: That's  
6 assigned in government affairs.  
7 So if it says that, then that's  
8 probably what it is.

9 BY MR. TELLIS:

10 Q. Okay. Now, it says here  
11 under legal committee, that participation  
12 is distributor members, invitation only.

13 Do you see that?

14 A. I do.

15 Q. Is there a reason for that?

16 A. For distributor members, I  
17 would imagine it's specific to the  
18 advocacy or legal side, which is our  
19 distributor members only. And I can't  
20 tell you why it says invitation only.

21 Q. Okay. Who makes the  
22 invitation to join the legal committee?

23 A. I don't know.

24 MR. TELLIS: Let me show him

1                   Exhibit 17 -- sorry, Document 17.

2                   MR. CLUFF: We'll mark it as  
3                   Exhibit 7.

4                   MR. TELLIS: Yeah.

5                   (Document marked for  
6                   identification as Exhibit  
7                   HDA-Fri-7.)

8                   MR. CLUFF: For the record,  
9                   this document was produced  
10                  natively. We sorted it by the  
11                  committee name. So that it  
12                  appears in alphanumerical order by  
13                  that field.

14 BY MR. TELLIS:

15                  Q. Let me show you what we  
16                  received from the HDA in native format.  
17                  It's placed before you there. It appears  
18                  to be a list of names of individuals and  
19                  associated committee involvement.

20                  A. If I had a microscope, I  
21                  could read it. Whoever is driving this,  
22                  if they can make it larger, that would be  
23                  great. Thank you.

24                  Q. There's some committees on

1 here that aren't reflected in the website  
2 document that I just showed you. I'm  
3 wondering if you can shed some light on  
4 what it is they do. We'll go to Page 5,  
5 for example. There's a contracts and  
6 chargebacks working group.

7 Do you see that?

8 A. I do see that.

9 Q. What do they do?

10 A. It's listed right here on  
11 the last page of the committees.

12 Q. Is it on there? I must have  
13 missed it. All right.

14 Then what about the control  
15 substances abuse task force?

16 A. It's not one of my  
17 committees, so I would not be clear on  
18 their exact mission.

19 Q. Do you know who -- who is  
20 responsible for that?

21 A. I would assume that's run  
22 out of our government affairs department.

23 Q. Is that Anita Ducca?

24 MR. WEINSTEIN: Objection to

1 form.

2 THE WITNESS: I'm sorry. If  
3 that's a question, I don't know.  
4 Patrick assigns those.

5 BY MR. TELLIS:

6 Q. What about the DEA planning  
7 meeting? Do you see that on Page 7?

8 A. I see it.

9 Q. Who's got responsibility for  
10 the DEA planning meeting at the HDA?

11 A. I don't know. But that's  
12 something that probably got -- there was  
13 no better way to record it in the  
14 database, so they called it a meeting in  
15 here.

16 Q. What does the DEA planning  
17 meeting do?

18 A. That's not -- I don't know.  
19 It does not -- did not involve me.

20 Q. If you wanted to find out  
21 who was sort of in charge or involved  
22 with these groups at the HDA, is there a  
23 directory or who -- at the HDA? Or who  
24 would you ask?

1 MR. WEINSTEIN: Objection to  
2 form.

3 THE WITNESS: These groups,  
4 if I made the assumption they were  
5 operating under government  
6 affairs, I would ask Patrick.

7 BY MR. TELLIS:

8 Q. Patrick Kelly?

9 A. Correct.

10 Q. You -- you have  
11 responsibility over the industry  
12 relations group?

13 A. Correct.

14 Q. And they are comprised of  
15 distributor and manufacturer members?

16 A. Correct.

17 Q. And what is their mission or  
18 goal?

19 A. Again, I think that's  
20 probably written down here. But we're  
21 talking about issues related to  
22 logistics, business practices,  
23 technologies. They provide feedback on  
24 our programming and events, as well as

1 our professional development programming.

2 Q. And are there specific task  
3 forces that work specifically with the  
4 IRC?

5 A. Not specifically with the  
6 IRC.

7 Q. Okay. What is the -- what  
8 is the -- what causes a task force to be  
9 formed within the HDA?

10 MR. WEINSTEIN: Objection to  
11 form.

12 THE WITNESS: Some of these  
13 are legacy groups that I wasn't  
14 around for. So business  
15 technology committee or logistics  
16 committee was there prior. But  
17 they had specific focus on  
18 logistics and technology.

19 The most work we do right  
20 now is around traceability  
21 implementation, so this is the  
22 work we do around serializing and  
23 tracing products through the  
24 supply chain, and a big chunk of

1           our focus has been work groups  
2           specifically devoted to that task.

3       BY MR. TELLIS:

4           Q.       Okay. Is there a reason why  
5       a council can't work on something that  
6       they need a task force? I'm under -- I'm  
7       trying to understand what role --

8           A.       It's the responsibility  
9       levels, I guess. So the council people  
10      tend to be a little bit higher level with  
11      responsibilities for, you know,  
12      operations or logistics in their  
13      organizations. But an E-commerce task  
14      force is specifically around electronic  
15      data interchange and the details of that  
16      transaction. A barcode is -- a barcode  
17      task force is specific to the -- the X  
18      dimensions of the barcode and what's  
19      human readability and what's  
20      electronically readable format. So  
21      that's detail-oriented stuff and that  
22      requires people that have that  
23      understanding.

24           Q.       Is there a task force that

1 focuses on diversion activity or  
2 suspicious order monitoring?

3 A. Not to my knowledge.

4 Q. How about a working group?

5 A. Not to my knowledge.

6 Q. How about a council?

7 MR. WEINSTEIN: Objection to  
8 form.

9 THE WITNESS: There is not a  
10 council.

11 BY MR. TELLIS:

12 Q. Now, there is also something  
13 called strategy meeting groups, right?  
14 Is that on that --

15 MR. TELLIS: What page is it  
16 on?

17 BY MR. TELLIS:

18 Q. See in -- on -- you see on  
19 Page 20 of Exhibit 7, this spreadsheet.  
20 At the bottom of that page there's  
21 something called HDA drug diversion/DEA  
22 strategy task force.

23 A. Okay.

24 Q. What is a strategy -- DEA

1 strategy task force?

2 A. I don't know. That would  
3 probably take place under government  
4 affairs. I was not involved with it.

5 Q. And that's Anita Ducca?

6 MR. WEINSTEIN: Objection to  
7 form.

8 THE WITNESS: Patrick Kelly  
9 runs government affairs.

10 BY MR. TELLIS:

11 Q. Anita Ducca is regulatory  
12 affairs?

13 MR. WEINSTEIN: Objection to  
14 form.

15 THE WITNESS: Her title is  
16 regulatory affairs.

17 BY MR. TELLIS:

18 Q. All right. Do each of these  
19 task forces or working groups keep  
20 minutes?

21 MR. WEINSTEIN: Objection to  
22 form. Foundation.

23 THE WITNESS: I don't know.

24 BY MR. TELLIS:

1           Q.       How does the HDA executive  
2       committee or board of directors know what  
3       each of the task force and working groups  
4       are doing at any given moment?

5           A.       Anything --

6                   MR. WEINSTEIN:   Objection to  
7       form.   Foundation.

8                   THE WITNESS:   Anything  
9       that's relevant to a discussion  
10      that the board wants to have, it's  
11      reporting from staff, and we try  
12      to maintain a list of the issues  
13      that we were working on.

14   BY MR. TELLIS:

15           Q.       So an HDA staff member is  
16      present for meetings and can report to  
17      the executive committee or the board as  
18      to what was going on?

19           A.       If it's required.

20           Q.       And is there -- is there  
21      periodic reporting of what happens in  
22      these meetings or is it only by request?

23                   Let me -- let me rephrase  
24      that.   Does the staff, does HDA staff

1 provide periodic reporting to the  
2 executive committee or the board as to  
3 the work of the task forces or the  
4 working groups?

5 MR. WEINSTEIN: Objection to  
6 form.

7 THE WITNESS: In my  
8 experience with the committees and  
9 task forces that I work with, if  
10 it's relevant to the discussion  
11 that the board or executive  
12 committee wants to have, then yes,  
13 I can provide a report on that.

14 BY MR. TELLIS:

15 Q. But it's by request?

16 A. It's -- it's by agenda,  
17 yeah.

18 Q. So absent a request like  
19 that, what happens in these task forces  
20 and working groups isn't typically  
21 recorded?

22 A. It's recorded.

23 Q. Memorialized in some  
24 minutes?

1 MR. WEINSTEIN: Objection to  
2 form. Foundation.

3 THE WITNESS: Or -- or a  
4 document output. So for -- an  
5 example would be I don't think our  
6 board wants to spend a lot of time  
7 on X dimensions and human  
8 readability formats for barcodes,  
9 but yet it's work that we need to  
10 do.

11 So we'll produce a guideline  
12 that is the result of our work.  
13 But it's not something that rises  
14 to the level of the board  
15 discussion.

16 BY MR. TELLIS:

17 Q. What about something like  
18 the DEA strategy task force, do they  
19 report to the board or the executive  
20 committee?

21 A. I don't --

22 MR. WEINSTEIN: Objection.  
23 Foundation.

24 THE WITNESS: I don't know

1 the answer to that.

2 BY MR. TELLIS:

3 Q. Okay. Turn to Page 30,  
4 please, of this same document.

5 A. I apologize. I can't read  
6 the document. My eyes aren't that --

7 Q. Well, on Page 30 is  
8 something referred to as the prescription  
9 drug abuse strategy group.

10 A. Okay.

11 Q. Do you -- do you know what  
12 that group does?

13 A. I do not.

14 Q. Do you know who is  
15 responsible for that group within the  
16 HDA?

17 A. Presumably comes out of our  
18 government affairs department. So I  
19 would say Patrick.

20 Q. Okay.

21 MR. TELLIS: All right.

22 We've been going an hour. Let's  
23 take a break.

24 THE VIDEOGRAPHER: The time

1 is 11:01 a.m. We are going off  
2 the record.

3 (Short break.)

4 THE VIDEOGRAPHER: The time  
5 is 11:14 a.m. We are back on the  
6 record.

7 BY MR. TELLIS:

8 Q. Mr. Fri, task forces  
9 typically report to committees which  
10 typically report to councils?

11 MR. WEINSTEIN: Objection to  
12 form.

13 THE WITNESS: There is often  
14 not a direct reporting structure.

15 BY MR. TELLIS:

16 Q. Okay. But so can you tell  
17 me -- the -- the so-called HDA drug  
18 diversion/DEA strategy task force. What  
19 committee or council does that task force  
20 interface with?

21 A. I don't know. That's on the  
22 government affairs side of the house.  
23 That's not part of what I do.

24 Q. That's Patrick Kelly?

1                   A.       Correct.

2                   Q.       And the reporting system --  
3       reporting system strategy task force,  
4       what committee or council do they  
5       interface with?

6                   A.       I -- I have never heard of  
7       that one.

8                   Q.       Okay. So on Page 39 of this  
9       chart we have something called the  
10      reporting system strategy task force that  
11      is populated by AmerisourceBergen,  
12      Cardinal Health, McKesson, Miami-Luken,  
13      among others. You don't know what they  
14      do?

15                  A.       I don't.

16                  Q.       Is that in Mr. Kelly's work?

17                  A.       That's presumably -- if it's  
18      all distributors, it's presumably a  
19      government affairs task force and  
20      something that Patrick works on.

21                  Q.       Okay. Can you tell me  
22      which -- can you tell me all the task  
23      forces that have responsibility of  
24      interfacing with respect to DEA issues?

1 MR. WEINSTEIN: Objection to  
2 form, foundation, and scope.

3 THE WITNESS: I wouldn't  
4 know all the committees or task  
5 forces.

6 BY MR. TELLIS:

7 Q. Do you know any of them? Do  
8 you?

9 A. Say it again. Committees or  
10 task forces --

11 Q. The -- any task force, right  
12 now let's just stick to task force --

13 A. Okay.

14 Q. -- that has, as part of its  
15 responsibility, DEA issues?

16 MR. WEINSTEIN: Same  
17 objections.

18 THE WITNESS: I wouldn't be  
19 able to list them all out there in  
20 the government affairs department  
21 and I don't work in that.

22 BY MR. TELLIS:

23 Q. I'm not asking you to list  
24 them all out. I'm asking you for the

1       ones you know.

2                       We -- we've seen one here  
3       called DEA strategy task force, right?  
4       Are there others that you know of?

5                       MR. WEINSTEIN:  Objection to  
6       form, foundation, and scope.

7                       THE WITNESS:  I can only  
8       assume that a DEA strategy task  
9       force has within its purview the  
10      discussion on how we relate to  
11      DEA.

12     BY MR. TELLIS:

13                      Q.       Right.  Very good.  Can you  
14      name others?

15                      A.       Not off the top of my head.  
16      But I can go through the list and guess.

17                      Q.       And what would you be  
18      looking for, the word DEA?

19                      A.       That would be the first  
20      clue.

21                      Q.       Any others?

22                      MR. WEINSTEIN:  Objection to  
23      form, foundation, and scope.

24                      THE WITNESS:  I don't --

1           honestly don't know. I don't work  
2           with those committees.

3       BY MR. TELLIS:

4           Q.     All right. So industry  
5           relations, let's look at Document 10.  
6           Which is Exhibit --

7                     MR. CLUFF: 8.

8                     MR. TELLIS: 8.

9                     (Document marked for  
10           identification as Exhibit  
11           HDA-Fri-8.)

12       BY MR. TELLIS:

13           Q.     That's your world, right?

14           A.     Yes, sir.

15           Q.     Let me show you a document  
16           which is an e-mail with attachment from  
17           you to Anthony Rattini at Miami-Luken,  
18           dated November 19, 2014, Bates numbered  
19           ML63167 through 71.

20           A.     Mm-hmm. Let me take a  
21           moment to look that over.

22                     Yes.

23           Q.     Do you recognize Exhibit 8  
24           as a true and correct copy of an e-mail

1       you sent to Mr. Rattini with attachments?

2               A.       Currently do.

3               Q.       You were writing to him  
4       asking whether he would like to join the  
5       committee, right?

6               A.       Correct.

7               Q.       Okay. Is that how you  
8       typically solicited members, through  
9       e-mails like this?

10              A.       At the -- at the time it was  
11       potentially driven by a separate  
12       conversation. But if we were recruiting  
13       for members of the industry relations  
14       council, this might be how we do it.

15              Q.       You've attached the members  
16       as of the date of this e-mail, right?

17              A.       Right.

18              Q.       2014. And its members  
19       include both distributors and  
20       manufacturers, right?

21              A.       Correct.

22              Q.       And there's also attached  
23       the mission statement for this council,  
24       right?

1 A. Correct.

2 Q. Among its missions is,  
3 second bullet point, "Driving  
4 collaborative supply chain improvements."  
5 Right?

6 A. Correct.

7 Q. Next one, "Enhancing  
8 long-term business relations between  
9 healthcare supply chain constituents."

10 A. Correct.

11 Q. What role do the  
12 manufacturers have in those items?

13 A. Obviously there's a lot --  
14 there's a great deal of transactions and  
15 a lot of volume of product that flows  
16 between manufacturers and distributors.

17 Manufacturers are interested  
18 as much as distributors in the most  
19 efficient and effective way to handle  
20 that, both the physical part of it as  
21 well as the electronic part.

22 Q. So the collaboration on the  
23 supply chain would include both input by  
24 the manufacturers and distributors?

1                   A.       Correct.

2                   Q.       Okay. You say in your  
3 sentence, in the e-mail, attached to  
4 this, it says in the second paragraph,  
5 "This group" -- last sentence. "This  
6 group," referring to the industry  
7 relations council, "helps guide our work  
8 around technology, operations, and  
9 business practices and helps us direct  
10 HDMA's events and membership programs."

11                             Do you see that?

12                  A.       Correct, yes.

13                  Q.       What do you mean by business  
14 practices in that context?

15                  A.       I think business processes  
16 is probably a better word. But if we are  
17 thinking about helping develop  
18 information around, as an example, a loss  
19 of exclusivity event. When a  
20 manufacturer is going to face a generic  
21 competition, how do -- what happens to  
22 the returns process to effectively get  
23 branded product out when the generic  
24 product becomes a competitor.

1           Q.     So a distinction between  
2     practices and processes would for example  
3     take something like suspicious order  
4     monitoring out of your purview?

5           A.     Correct.

6           Q.     So in the mission statement  
7     at the end where you talk about providing  
8     guidance on legislative, regulatory, and  
9     state issues affecting the supply chain,  
10    what are you referring to there?

11          A.     Traceability, reverse  
12    logistics, things like that, where  
13    additional guidances is helpful to how we  
14    plan our regulatory or legislative  
15    agenda.

16          Q.     That guidance wouldn't be --  
17    wouldn't include initiatives to curb  
18    opioid abuse?

19          A.     That's not part of the  
20    discussion that we have on the industry  
21    relations side.

22          Q.     It wouldn't include  
23    discussions about distributor due  
24    diligence --

1 MR. CRAWFORD: Object to  
2 form.

3 BY MR. TELLIS:

4 Q. -- suspicious monitoring,  
5 that sort of thing?

6 A. We haven't had those  
7 conversations on the industry relations  
8 side.

9 Q. Those are on the government  
10 affairs side?

11 A. Correct.

12 Q. You -- in the bullet point  
13 towards the middle, it says, "Identifying  
14 initiatives outside the healthcare  
15 distribution industry to serve as best  
16 practice models."

17 What is that referring to?

18 A. Well, apparently nothing,  
19 because we can't find many.

20 But the idea is to look  
21 outside and say, you know, is there  
22 something that Walmart does in a consumer  
23 products supply chain or something that  
24 happens in automotive parts that is

1       useful and applicable to learnings in the  
2       pharmaceutical supply chain.

3               Q.       Processwise?

4               A.       True.   Technology and  
5       processwise.   And my point was we haven't  
6       found many good examples.

7               Q.       In other -- in other  
8       industries?

9               A.       Correct.

10              Q.       Did you ever have a role on  
11      the government affairs side?

12              A.       No, other than what that  
13      says in terms of providing guidance  
14      around issues that are within the scope  
15      of what I do.

16              Q.       Yeah.   So how do you go  
17      about doing that?   Do you rely on the  
18      government affairs side folks to assist  
19      you or --

20                      MR. WEINSTEIN:   Objection to  
21                      form.

22      BY MR. TELLIS:

23              Q.       How do you go about  
24      providing guidance on regulatory and

1 state issues affecting the supply chain?

2 MR. WEINSTEIN: Objection to  
3 form.

4 THE WITNESS: So again,  
5 traceability is a great example.  
6 We have a law that we advocated  
7 for that requires traceability in  
8 the supply chain with milestones  
9 that reach over a ten-year period  
10 starting in 2015 and going to  
11 2023.

12 The implementation side of  
13 that is very focused on -- we've  
14 had to do work around bar codes.  
15 We've had to do work around EDI  
16 transactions. We've had to do  
17 work around the ability to verify  
18 serialized saleable returns, and  
19 the work we do there informs our  
20 regulatory folks as FDA kind of  
21 works through the regulations to  
22 implement that law.

23 BY MR. TELLIS:

24 Q. Okay. Let's talk about HDA

1 membership. Are you familiar with the  
2 HDA's membership structure?

3 A. I am.

4 Q. So as I understand it,  
5 there's a multitiered membership  
6 structure. You have primary members who  
7 are the wholesale distributors?

8 A. Correct.

9 Q. Yes? Then you have kind of  
10 an associate or affiliate manufacturer  
11 member?

12 A. Correct.

13 Q. And then are there other  
14 tiers?

15 A. There are.

16 Q. What are they?

17 A. We have a service provider  
18 membership.

19 Q. And who's in that tier?

20 A. Those companies are  
21 consultants, IT companies, companies that  
22 plan and build warehouse facilities,  
23 companies that build vaults and cages.  
24 That sort of thing. So companies that

1 provide services or goods to  
2 manufacturers and distributors.

3 Q. Are there other tiers?

4 A. We have an international  
5 membership. I believe we have -- I  
6 believe we have two international members  
7 right now.

8 Q. Any other tiers?

9 A. We have -- we have a very  
10 small health, beauty, and wellness tier.  
11 So for companies that primarily do  
12 consumer products but still work through  
13 distributors to reach independent  
14 pharmacies. We have a membership that is  
15 a lower dues rate.

16 And then we also operate  
17 something called the Pharmaceutical Cargo  
18 Security Coalition. And companies can be  
19 members of that.

20 Q. What about data members like  
21 IMS? Are they members?

22 A. That's a good question. I  
23 don't recall if -- IMS is now called  
24 IQVIA.

1 Q. Right.

2 A. I don't -- we often work  
3 with IQVIA. But I don't know if they're  
4 actually a member.

5 Q. Is there some restriction on  
6 who's entitled to be a member of any of  
7 these tiers? Can -- can my law firm be a  
8 member?

9 MR. WEINSTEIN: Objection to  
10 form.

11 THE WITNESS: Sure.

12 BY MR. TELLIS:

13 Q. There's no restriction on  
14 who can be a member of any one --

15 A. There's a -- there is a  
16 restriction and guidance around criteria  
17 for a distributor membership, for  
18 manufacturers, and for service providers.

19 Q. But not within the tiers?  
20 In other words -- well, let me take it --  
21 Are the primary members  
22 limited to distributors?

23 A. Yes.

24 Q. The wholesale distributors?

1                   A.       Yes.

2                               MR. CRAWFORD:   Object to  
3                   form.

4   BY MR. TELLIS:

5                   Q.       The big three, McKesson,  
6                   Cardinal, and Amerisource, are all  
7                   primary members?

8                   A.       Our publicly held companies  
9                   are, yes, members.

10                  Q.       And then the associate or  
11                  second-tiered members are limited to  
12                  manufacturers?

13                  A.       I don't know if I would call  
14                  them second tier.  It's another tier.  
15                  Manufacturers, companies that sell  
16                  products to distributors in the  
17                  pharmaceutical supply chain are  
18                  manufacturer members.

19                  Q.       So I'll call them equally  
20                  culpable members --

21                               MR. WEINSTEIN:  Objection to  
22                   form.

23                               MR. CRAWFORD:  Objection to  
24                   form.

1 BY MR. TELLIS:

2 Q. -- on that second tier? All  
3 right. So -- and they would include  
4 Purdue, Janssen, Teva, Allergan,  
5 Mallinckrodt to name a few?

6 A. In most cases, Janssen, not  
7 specifically.

8 Q. Okay. And then what about  
9 generic manufacturers?

10 A. Well, you just named a  
11 couple. So, yes.

12 Q. They are members as well?

13 A. Correct.

14 Q. And they fall within this --

15 A. Brand generic and specialty  
16 manufacturers.

17 Q. Okay. Are -- are the rights  
18 that membership -- members get different  
19 if you're a distributor or a  
20 manufacturer?

21 MR. WEINSTEIN: Objection to  
22 form.

23 THE WITNESS: Yes.

24 BY MR. TELLIS:

1           Q.     Like, and -- and so the  
2     right to participate on a council or a  
3     committee or a task force may be  
4     different because those are populated by  
5     certain types of members?

6           A.     So, again, distributors are  
7     the only ones that can participate on the  
8     advocacy side.

9           Q.     Right.

10          A.     So anything that has to do  
11     with federal, state and regulatory  
12     affairs.

13                     On the industry side,  
14     manufacturers and distributors have the  
15     same opportunity to participate in  
16     committees, councils, and task forces.

17          Q.     But -- but do the  
18     manufacturer members have a right to make  
19     suggestions or provide some input to the  
20     advocacy side?

21                     MR. CRAWFORD:   Object to  
22                     form.

23                     THE WITNESS:    No.

24     BY MR. TELLIS:

1 Q. Okay. Do all members have  
2 the right to communicate with the board  
3 or the executive committee?

4 MR. WEINSTEIN: Objection to  
5 form.

6 THE WITNESS: Presumably if  
7 they know one -- know one another,  
8 they can communicate with one  
9 another.

10 BY MR. TELLIS:

11 Q. But I mean, is there -- is  
12 there a right to place things on an  
13 agenda, for example, to be taken up by  
14 the board or the executive committee?

15 MR. WEINSTEIN: Objection to  
16 form.

17 THE WITNESS: I don't know  
18 if there is a right, per se.

19 BY MR. TELLIS:

20 Q. Is there an HDA staff person  
21 or persons with primary responsibility  
22 for interfacing between membership and  
23 the executive committee?

24 A. Not specifically.

1 Q. How about with the board?

2 A. Not specifically.

3 Q. The -- the HDA members are  
4 assessed dues --

5 A. Correct.

6 Q. -- membership dues.

7 Are they annual?

8 A. They are.

9 Q. And are the amount of those  
10 fees proportional to the size of the  
11 company?

12 A. Generally.

13 Q. And it's based on assets,  
14 sales, or what's the metric that is used?

15 A. Sales.

16 Q. Sales. And so it's fair to  
17 say then that the -- the big three  
18 distributors pay the lion's share of  
19 those fees?

20 MR. CRAWFORD: Object to  
21 form.

22 MR. WEINSTEIN: Objection to  
23 form.

24 THE WITNESS: Publicly held

1           companies obviously pay a higher  
2           rate in dues.

3       BY MR. TELLIS:

4           Q.       They pay the majority of it?

5                   MR. WEINSTEIN:  Objection to  
6           form.

7                   MR. CRAWFORD:  Objection to  
8           form.

9                   MS. ROLLINS:  Objection.

10                  MS. CHARLES:  Objection.

11                  THE WITNESS:  I would have  
12       to do math on that.

13       BY MR. TELLIS:

14           Q.       It's --

15           A.       If you're talking about all  
16       dues, it would be close.

17           Q.       Is it -- is it fair to say  
18       that the publicly traded companies are  
19       responsible for the majority of the HDA's  
20       funding?

21                   MR. WEINSTEIN:  Objection to  
22       form.

23                   MR. CRAWFORD:  Objection to  
24       form.

1 THE WITNESS: I -- I don't  
2 think so.

3 BY MR. TELLIS:

4 Q. Where does the funding come  
5 from, other than the fees?

6 A. Other than the publicly held  
7 company dues?

8 Q. Understood --

9 A. So we have the other --

10 Q. No, all dues. Let's just  
11 put all dues. Does the HDA generate  
12 revenue or income from sources other than  
13 membership fees or dues?

14 A. Yes.

15 Q. From where?

16 A. We have conference and event  
17 registration, and we have sponsorship.

18 Q. Sponsorship means  
19 opportunities to sponsor some --

20 A. An event. Education  
21 program. A key card at the hotel.

22 Q. That meant you display the  
23 member's name?

24 A. Mm-hmm.

1 Q. It's like advertising?

2 A. Yes.

3 Q. And what proportion to the  
4 overall revenue that the HDA earns comes  
5 from those two versus fees, sponsorship  
6 and --

7 A. Registration.

8 Q. -- registration, conference  
9 registration versus fees?

10 A. I -- I don't have the budget  
11 in front of me. I --

12 Q. More than half of the  
13 revenue come from fees?

14 MR. WEINSTEIN: Objection to  
15 form.

16 THE WITNESS: I -- I don't  
17 know the answer to that.

18 BY MR. TELLIS:

19 Q. And the publicly held  
20 distributor members are the big three?

21 MR. CRAWFORD: Objection to  
22 form.

23 MR. WEINSTEIN: Objection to  
24 form.

1 BY MR. TELLIS:

2 Q. Can you think of others?

3 MR. WEINSTEIN: Objection to  
4 form.

5 THE WITNESS: No, other than  
6 publicly held companies.

7 Actually, that may not be  
8 the case.

9 We have other companies that  
10 are divisions of publicly held  
11 companies, so...

12 BY MR. TELLIS:

13 Q. Right. There might be  
14 publicly held divisions of a distributor,  
15 so -- is that what you mean, that are  
16 members?

17 A. Of another company.

18 MR. CRAWFORD: Objection to  
19 form.

20 BY MR. TELLIS:

21 Q. That are members?

22 A. Yes.

23 Q. The HDA frequently has  
24 meetings or calls that -- that is

1 confined to just the big three  
2 distributors, right?

3 MR. WEINSTEIN: Objection to  
4 form.

5 THE WITNESS: Not to my  
6 knowledge.

7 BY MR. TELLIS:

8 Q. The -- the HDA didn't  
9 institute a monthly big three briefing  
10 call during your tenure there?

11 MR. CRAWFORD: Object to  
12 form.

13 THE WITNESS: I think those  
14 have typically been executive  
15 committee briefing calls.

16 BY MR. TELLIS:

17 Q. Okay. So -- and those are  
18 limited to the big three?

19 A. No, sir. There's seven  
20 members of the executive committee.

21 MR. TELLIS: Show me -- show  
22 me that document. Hold on.

23 (Document marked for  
24 identification as Exhibit

1 HDA-Fri-9.)

2 BY MR. TELLIS:

3 Q. Let me show you what I'm  
4 going to mark as --

5 MR. CLUFF: No, it's from  
6 the HDA to members of McKesson.

7 MR. TELLIS: I'm sorry.  
8 Right.

9 BY MR. TELLIS:

10 Q. From Mr. Kelly at the HDA to  
11 McKesson, Cardinal Health,  
12 AmerisourceBergen, an e-mail dated  
13 January 14th -- January of 2014. Bates  
14 numbered MCKMDL00651559.

15 MR. WEINSTEIN: Take your  
16 time to read that.

17 MR. TELLIS: I'm sorry?

18 MR. WEINSTEIN: I just told  
19 Perry to take his time to read it.

20 I'm going to object to the  
21 scope obviously as to questions on  
22 this document.

23 THE WITNESS: Okay.

24 BY MR. TELLIS:

1           Q.       You can read it all. But  
2       I'm focused on Paragraph Number 4 at the  
3       bottom. It says, "And finally, I would  
4       like to restart a monthly big three  
5       briefing call."

6                   Do you see that?

7           A.       I do see that.

8           Q.       Do you know what that's  
9       referring to?

10          A.       I don't.

11          Q.       You've never taken part in  
12       any sort of monthly big three briefing  
13       call?

14          A.       I have not.

15          Q.       Do you know who the big  
16       three are?

17          A.       They seem to be referring to  
18       Amerisource, Cardinal, and McKesson.

19          Q.       Well, that's who the  
20       recipients of this e-mail are, right?

21          A.       Correct.

22                   MS. CHARLES: Counsel, I'm  
23       going to object. This is not one  
24       of the McKesson documents that you

1 provided to me.

2 MR. CLUFF: It's authored by  
3 the HDA. We don't need your  
4 approval.

5 MS. CHARLES: This witness  
6 is not on the topic --

7 MR. CLUFF: The HDA had the  
8 document, and he's testifying in  
9 his 30(b)(6) capacity as a member  
10 of the HDA.

11 MS. CHARLES: Not on this  
12 topic.

13 BY MR. TELLIS:

14 Q. So let me show you what  
15 we'll mark as Exhibit 12 -- I'm sorry,  
16 Exhibit 8 (sic). It's Document 12.

17 (Document marked for  
18 identification as Exhibit  
19 HDA-Fri-10.)

20 BY MR. TELLIS:

21 Q. My apologies.

22 Let me show you what I'm  
23 going to mark as Exhibit 10, which is an  
24 e-mail from Patrick Kelly to Mary

1 Anderson, Bates Number HDA\_MDL 0089247.

2 MR. WEINSTEIN: Object to  
3 scope as to this -- questions on  
4 this document.

5 BY MR. TELLIS:

6 Q. Do you know, this e-mail was  
7 referring to a coordination call.

8 Do you see that?

9 A. Let me take a minute to read  
10 it first.

11 Yes.

12 Q. Do you know what a  
13 coordination call is?

14 MR. WEINSTEIN: Objection to  
15 form.

16 THE WITNESS: I think it's a  
17 call to address the items on the  
18 agenda listed below.

19 BY MR. TELLIS:

20 Q. And those items include  
21 presentation from the DEA, media  
22 inquiries on drug abuse, diversion,  
23 working group on drug abuse and  
24 diversion.

1 Do you see that?

2 A. Yeah.

3 Q. And it's inviting only the  
4 folks on this e-mail, which are Cardinal  
5 Health, AmerisourceBergen, and McKesson,  
6 right?

7 A. Correct.

8 Q. Do you know why those are  
9 the only companies invited by Mr. Kelly  
10 to talk about the items that are there?

11 MR. WEINSTEIN: Objection to  
12 form.

13 THE WITNESS: I do not.

14 MR. WEINSTEIN: Foundation.

15 BY MR. TELLIS:

16 Q. Mr. Fri, do your  
17 responsibilities involve in any way  
18 interacting with an entity called the  
19 Pain Care Forum?

20 A. No.

21 Q. Do you know who within the  
22 HDA does?

23 MR. WEINSTEIN: Objection to  
24 form.

1 BY MR. TELLIS:

2 Q. I'm talking about staff.

3 A. I don't, actually.

4 Q. Do you know what the Pain  
5 Care Forum is?

6 A. I do not.

7 Q. Never heard of it?

8 A. I've heard of it.

9 Q. What is it? What's your  
10 understanding of what it is, if you have  
11 one?

12 A. I don't have a particular  
13 understanding. I would imagine that they  
14 have conversations around appropriate use  
15 of pain medications.

16 Q. Is that Mr. Kelly's world?

17 A. I honestly don't know.

18 Q. Okay. If you wanted to find  
19 out, who would you ask?

20 MR. WEINSTEIN: Objection to  
21 form.

22 BY MR. TELLIS:

23 Q. Who would you ask at the HDA  
24 staff as to which members of the HDA were

1 involved in interfacing with the Pain  
2 Care Forum?

3 MR. WEINSTEIN: Objection to  
4 form.

5 THE WITNESS: If I was  
6 asking about which staff members  
7 interface with them?

8 BY MR. TELLIS:

9 Q. Yes.

10 A. Patrick would be the first  
11 start.

12 Q. When you joined the HDA in  
13 2006, were you familiar with the  
14 provisions of the Controlled Substance  
15 Act?

16 A. I was not.

17 Q. So in your prior life, you  
18 had no reason to be involved with that --

19 A. Correct.

20 Q. -- Act or as -- or any  
21 Schedule II drugs?

22 A. Correct.

23 Q. How did you get your job at  
24 the HDA? What is it that caused you to

1 be interested in it?

2 A. I've known our present CEO,  
3 Mr. Gray, since '91 or '92. The person  
4 that was previously in the industry  
5 relations position left, and I  
6 interviewed for the job.

7 Q. What did you understand the  
8 job to be at that time?

9 A. It was at the time, it was  
10 just the industry relations part of my  
11 job.

12 Q. And did you have to have any  
13 prior knowledge or understanding of the  
14 Controlled Substance Act or schedule --

15 A. No.

16 Q. -- the regulation of  
17 Schedule II drugs?

18 A. No.

19 Q. When is the first time that  
20 you learned about a suspicious order  
21 monitoring program?

22 MR. WEINSTEIN: Objection.

23 BY MR. TELLIS:

24 Q. Let me back up. Do you know

1     what a suspicious order monitoring  
2     program is?

3                     MR. WEINSTEIN:  Objection to  
4                     scope as to this line of  
5                     questions.

6                     THE WITNESS:  I -- I  
7                     generally have a concept of what  
8                     it's meant to do.

9     BY MR. TELLIS:

10                    Q.     What is it meant to do?

11                    A.     It is meant to monitor  
12                    orders for those that might be  
13                    suspicious.

14                    Q.     Okay.  And do you know --  
15                    when was the first time that you heard  
16                    that, that phrase?

17                    A.     No idea.

18                    Q.     Okay.  You came to learn  
19                    about it, though, after you joined the  
20                    HDA?

21                    A.     Yes.

22                    Q.     Okay.  So am I correct that  
23                    you have never had any discussions with  
24                    any of the HDA distributor members about

1     their suspicious order monitoring  
2     programs?

3                     MR. CRAWFORD:   Object to  
4                     form.

5                     THE WITNESS:   That is  
6                     correct.

7     BY MR. TELLIS:

8             Q.     Are you generally familiar  
9     with the DEA's actions in sending out  
10    so-called "Dear Registrant" letters in  
11    the 2006, '7 time frame?

12                    MR. WEINSTEIN:   Objection.

13    BY MR. TELLIS:

14             Q.     Do you know what I'm talking  
15    about?

16                    MR. WEINSTEIN:   Objection to  
17                    form.

18                    THE WITNESS:   I don't know  
19    the dates.   I've heard the concept  
20    of "Dear Registrant" letters.

21    BY MR. TELLIS:

22             Q.     You understand that the DEA,  
23    at some point after you joined the HDA,  
24    had sent letters to certain folks in the

1     opioid supply chain concerning their  
2     obligations under the Controlled  
3     Substance Act?

4                     MR. WEINSTEIN:  Objection to  
5                     form.

6     BY MR. TELLIS:

7             Q.     Are you familiar with that?

8                     MR. WEINSTEIN:  Objection to  
9                     form.

10                    THE WITNESS:  I -- I have  
11                    heard the term "Dear Registrant"  
12                    letters.

13     BY MR. TELLIS:

14             Q.     Okay.  How did you come to  
15     hear of it?

16             A.     I don't know.  If it's that  
17     long ago, I don't know how that I'd have  
18     come to hear it.

19             Q.     All right.  Have you had any  
20     involvement whatsoever in the HDA's  
21     activities in response to those  
22     letters --

23             A.     No.

24             Q.     -- on behalf of its members?

1 A. I have not.

2 Q. Okay. If you wanted to know  
3 what those activities were within the  
4 HDA, who -- who would you ask?

5 A. I don't know. That was  
6 before Patrick's time. But it was in the  
7 government affairs department if we were  
8 having that -- if we were having that  
9 conversation it would have been there.

10 Q. And who was in that  
11 department before Patrick?

12 A. Scott Melville led that  
13 before Patrick.

14 Q. And is Scott Melville still  
15 with the HDA?

16 A. He is not.

17 Q. Do you know where he is  
18 today?

19 A. I do.

20 Q. Where is he?

21 A. He runs a consumer health  
22 products association.

23 Q. Does it have a name?

24 A. Yes. The Consumer Health

1 Products -- CHPA.

2 Q. Okay. You said "A". Do you  
3 mean "the"? He runs the Consumer Health  
4 Products Association?

5 A. The Consumer Health Products  
6 Association.

7 Q. Okay. You've had no  
8 involvement in the HDA's efforts in  
9 developing best practices with respect to  
10 suspicious order?

11 A. No.

12 MR. TELLIS: Let's take a  
13 break. We're going to be ending  
14 soon.

15 MR. WEINSTEIN: Okay.

16 THE VIDEOGRAPHER: The time  
17 is 11:45 a.m. We're going off the  
18 record.

19 (Short break.)

20 THE VIDEOGRAPHER: The time  
21 is 12:16 p.m. We are back on the  
22 record.

23 MR. TELLIS: Mr. Fri,  
24 thanks. Those are the questions I

1                   have for you at this time.

2                   THE WITNESS: Thank you.

3                   -   -   -

4                   EXAMINATION

5                   -   -   -

6           BY MR. STEWART:

7                   Q.       Mr. Fri, I'm Mike Stewart  
8                   with the Tennessee plaintiffs in a  
9                   independent state court -- in independent  
10                  state court litigation. And we've been  
11                  invited to also participate in these  
12                  depositions through cross notice, which  
13                  we're doing today.

14                  I think your council has a  
15                  statement he wants to make.

16                  MR. WEINSTEIN: Right. So,  
17                  Mike, as we talked about outside,  
18                  I hadn't received advanced notice  
19                  that you would be questioning the  
20                  witness today. We reserve all our  
21                  rights in that regard, and have  
22                  agreed to allow you to question  
23                  the witness for a maximum of two  
24                  hours with the understanding that

1 we're not otherwise waiving any  
2 rights, with the understanding  
3 that in exchange for allowing the  
4 witness to testify today, you will  
5 not be calling for his testimony  
6 or deposition in connection with  
7 the Tennessee litigation, either  
8 in his personal capacity or as a  
9 30(b)(6) witness, and with the  
10 further understanding that his  
11 30(b)(6) testimony today is  
12 limited to the same topics that  
13 was discussed earlier, namely  
14 Topics 1, 2, 12, and 13 of the MDL  
15 plaintiffs' notice.

16 And with respect to those  
17 topics, it's limited solely to the  
18 committees, councils, and task  
19 forces that Mr. Fri was  
20 responsible for.

21 And I'll have a standing  
22 objection to scope in that regard,  
23 rather than object to every  
24 question so that I'm not

1           constantly interrupting. But if  
2           we have an agreement as to those  
3           terms, then we can proceed.

4                   MR. STEWART: We do. And I  
5           just want to make a couple points.  
6           First of all, I, of course, think  
7           we did give proper notice. But  
8           it's neither here -- we -- we've  
9           reached an arrangement.

10                   Of course, and this has been  
11           true for all these depositions,  
12           we'll be taking time, our time is  
13           irrespective of and has nothing to  
14           do with the time that you and the  
15           MDL have allotted for those  
16           depositions, including the  
17           30(b)(6) portion or 30.02(6)  
18           portion in Tennessee.

19                   But we will agree not to --  
20           not to redepose this defendant --  
21           I mean, or this witness as you  
22           described.

23                   With that, we'll go forward.

24                   MR. PYSER: For the

1 defendants, many of them are not  
2 in the Tennessee case. We do  
3 object to the use of this portion  
4 of the deposition that's taken by  
5 counsel that's not counsel in the  
6 MDL, in the MDL proceedings.

7 BY MR. STEWART:

8 Q. I'm going to hand you an  
9 exhibit, marked Exhibit 11.

10 (Document marked for  
11 identification as Exhibit  
12 HDA-Fri-11.)

13 BY MR. STEWART:

14 Q. I'll ask if you recognize  
15 it.

16 MR. TELLIS: Did you -- do  
17 you want to start at Exhibit 1 or  
18 do you want to start at 11?

19 MR. STEWART: We've always  
20 had consecutive exhibits in this,  
21 for simplicity's sake.

22 BY MR. STEWART:

23 Q. Are you aware that Mr. Gray  
24 had made a statement to Congress?

1 A. Yeah, I don't know the date.

2 Q. But you did know about the  
3 statement?

4 A. Certainly.

5 Q. Okay. Do you remember  
6 whether you reviewed the statement before  
7 it was made or after it was made?

8 A. I did not.

9 Q. Did you ever have  
10 discussions with Mr. Gray about his  
11 statement before Congress?

12 A. I did not.

13 Q. He says in the statement --  
14 let me ask, do you know Mr. Gray, do you  
15 deal with him in your business affairs?

16 A. I do.

17 Q. I presume that if he makes a  
18 statement to Congress, he intends it to  
19 be truthful and accurate?

20 A. I would believe he does,  
21 yeah.

22 Q. And let's turn to the third  
23 paragraph down the page. Do you see  
24 where Mr. Gray said, "HDA members have

1 not only statutory and regulatory  
2 responsibilities to detect and prevent  
3 diversion and control of prescription  
4 drugs, but to undertake such efforts as  
5 responsible members of our society."

6 Do you see that?

7 A. I do see that.

8 Q. Would you agree that's not a  
9 controversial statement, right?

10 MR. WEINSTEIN: Objection to  
11 scope. Objection to form and  
12 foundation.

13 It's not his statement.  
14 He's never seen it before.

15 BY MR. STEWART:

16 Q. Go ahead and answer.

17 A. I would agree that it's not  
18 a controversial statement.

19 Q. And you've talked about this  
20 already. But can you for the jury remind  
21 us, when you're talking about HDMA  
22 members, what types of -- of businesses  
23 does that include?

24 MR. WEINSTEIN: Objection to

1 form.

2 THE WITNESS: Depends on the  
3 context of the conversation.

4 We're talking our -- about our  
5 primary distributor members in  
6 this case. So that's who we  
7 advocate for. So that would  
8 simply be just distributors and  
9 not any of our associate or other  
10 types of members.

11 BY MR. STEWART:

12 Q. When you say just  
13 distributors, tell me who you are talking  
14 about, specifically with respect to  
15 companies. Give me some examples.

16 A. Our examples include  
17 AmerisourceBergen, McKesson, Cardinal,  
18 Smith Drug, Value Drug, Mutual Drug, et  
19 cetera, et cetera.

20 Q. And those are the  
21 distributors certainly that have a  
22 statutory and regulatory as well as a --  
23 a societal responsibility to prevent  
24 diversion, fair?

1 MR. WEINSTEIN: Objection to  
2 the form.

3 THE WITNESS: When he's  
4 talking about our members, he's  
5 talking about our members, yes.

6 BY MR. STEWART:

7 Q. And can you look to the next  
8 paragraph. There's a statement. Do you  
9 see he says, "To address the issue of  
10 prescription drug abuse, distributors  
11 have developed complex systems to help  
12 prevent diversion of medicines and to  
13 comply with the DEA's expanded  
14 expectation for suspicious order in  
15 monitoring and reporting."

16 Do you see that?

17 A. I do see that.

18 Q. Are you familiar with any of  
19 the complex systems that distributors  
20 have developed to prevent diversion?

21 A. I'm aware that they have  
22 complex systems. I'm not specifically  
23 aware of them or how they operate.

24 Q. Who in your organization

1 would be the best person to tell us about  
2 those complex systems?

3 MR. WEINSTEIN: Objection to  
4 form. Foundation.

5 THE WITNESS: I don't think  
6 there's anyone inside our  
7 organization that specifically has  
8 understanding of these complex  
9 systems.

10 BY MR. STEWART:

11 Q. Well, here someone  
12 representing your organization is talking  
13 about the complex systems. Where in your  
14 organization would he get that  
15 information?

16 MR. WEINSTEIN: Objection to  
17 form. Foundation.

18 THE WITNESS: Again, it's  
19 not my statement. I didn't  
20 develop the statement. So I'm not  
21 sure exactly how the content was  
22 developed.

23 BY MR. STEWART:

24 Q. So if you wanted to know

1     what was meant by complex systems to help  
2     prevent diversion of medicines, where  
3     would you go in your organization to  
4     figure that out?

5                     MR. WEINSTEIN:  Objection to  
6                     form.

7                     THE WITNESS:  I understand  
8                     the concept of complex systems and  
9                     the intent of -- the intent of  
10                    preventing diversion.  I don't  
11                    know who I'd ask because no one  
12                    would have specific knowledge of  
13                    those.

14  BY MR. STEWART:

15                    Q.     You think nobody within your  
16                    organization would have specific  
17                    knowledge of systems used to prevent  
18                    diversion?

19                    A.     Correct.

20                    MR. WEINSTEIN:  Objection to  
21                    form.

22  BY MR. STEWART:

23                    Q.     Is preventing diversion not  
24                    a focus of your organization?

1           A.       The concept of preventing  
2       diversion is in fact an interest of ours.

3           Q.       When we're talking about  
4       your organization, we are talking about  
5       the Healthcare Distribution Alliance?

6           A.       Yes, sir.

7           Q.       It used to have a different  
8       name, right?

9           A.       Correct.

10          Q.       What was that?

11          A.       Healthcare Distribution  
12       Management Association.

13          Q.       The point is, if we are  
14       talking about Healthcare Distribution  
15       Management Association or the Healthcare  
16       Distribution Alliance, we're talking  
17       about the same group, the same  
18       organization, just at different times,  
19       fair?

20          A.       Correct.

21          Q.       Okay. Do you see the next  
22       paragraph down in this statement? He  
23       says, "To aid in the development and  
24       implementation of these systems in 2008,

1 HDMA and its member companies developed  
2 the industry compliance guidelines to  
3 support the distribution industry  
4 practices on the evaluation of customer  
5 orders for controlled substances and the  
6 reporting of so-called suspicious orders  
7 to the DEA. The ICGs, as we call them,  
8 were vetted with the DEA in advance to  
9 their publication."

10 Do you see that?

11 A. Yes, sir.

12 Q. Are you familiar with  
13 industry compliance guidelines developed  
14 by the HDMA?

15 A. I'm aware that we developed  
16 industry compliance guidelines, yes.

17 Q. And what were -- what was  
18 the purpose of those guidelines?

19 MR. WEINSTEIN: Objection to  
20 scope as to this line of  
21 questioning.

22 THE WITNESS: I was not  
23 involved in the development of  
24 these guidelines.

1 BY MR. STEWART:

2 Q. Have you ever looked at  
3 those guidelines?

4 A. I can't say that I have.

5 Q. HDMA was the HDA by a  
6 different name. But have the guidelines  
7 been enforced -- are they enforced even  
8 till today? Do you know?

9 MR. WEINSTEIN: Objection to  
10 form.

11 THE WITNESS: Any guideline  
12 that we produced, including EDI,  
13 and bar codes and reverse  
14 logistics are not meant to be  
15 enforced. They're merely  
16 guidelines. None of those are  
17 ever meant to be standards.

18 BY MR. STEWART:

19 Q. What do you mean they are  
20 not meant to be standards? I mean, you  
21 put them out for what purpose? Why  
22 does -- strike that.

23 Why does the HDA put out  
24 guidelines about anything?

1 MR. WEINSTEIN: Objection to  
2 form.

3 THE WITNESS: So in the  
4 industry relations side of the  
5 house, where I operate, it is to  
6 help a very large and complex  
7 industry find more efficient ways  
8 to do things.

9 So EDI, if you ever want to  
10 look at an EDI transactions set, a  
11 lot of EDI standards are developed  
12 for different industries like  
13 automotive. And so you have to  
14 create a guideline on something  
15 that is meant for automotive in  
16 pharmaceutical.

17 For purchase orders,  
18 invoices, purchase order  
19 acknowledgments, advance ship  
20 notices, that sort of thing.

21 BY MR. STEWART:

22 Q. You say EDI. What does EDI  
23 mean?

24 A. Electronic data interchange.

1 It's a standard format for communication  
2 of business documents.

3 Q. So when the HDA puts out a  
4 standard --

5 A. They don't put out  
6 standards.

7 Q. Let me strike that. When  
8 the HDA put out something called  
9 guidelines, what does that tell its  
10 members?

11 MR. WEINSTEIN: Objection to  
12 form. Foundation.

13 THE WITNESS: Our intent is  
14 to say here is something that we  
15 as an industry -- again, on my  
16 side with manufacturers and  
17 distributors we've kind of worked  
18 our way through it and said, this  
19 is a good way to do it and in no  
20 way obligates anyone to do it that  
21 way.

22 BY MR. STEWART:

23 Q. Just what the guidelines  
24 tell people, they guide them as to

1 practices that the organization believes  
2 are a good way to carry out business; is  
3 that fair?

4 A. Yeah. So a barcode -- a  
5 barcode guidelines might have a  
6 commentary about how to place a barcode  
7 on a case.

8 Q. And then we'd have to look  
9 at your members and determine whether  
10 they've adopted the guidelines to know  
11 whether the guidelines have become the  
12 industry standard; is that fair?

13 MR. WEINSTEIN: Objection to  
14 form. You can answer.

15 THE WITNESS: Presumably.

16 BY MR. STEWART:

17 Q. Look at the next statement  
18 here that I'd like to turn your attention  
19 to, is the final paragraph on this page  
20 of Exhibit 11. And it says, "These  
21 guidelines emphasize the concept of 'know  
22 your customer,' that is, obtaining and  
23 reviewing thorough background information  
24 about a prospective healthcare provider

1 prior to doing business with them;  
2 therefore, in many cases potential  
3 problems can be avoided even before an  
4 order is placed."

5 Do you see that?

6 A. I do see that.

7 Q. Do you agree with that  
8 statement?

9 MR. WEINSTEIN: Objection to  
10 scope.

11 THE WITNESS: I don't have  
12 any reason to disagree with that  
13 statement.

14 BY MR. STEWART:

15 Q. Are you familiar with the  
16 know your customer concept as it relates  
17 to the distribution of pharmaceuticals?

18 A. I know that it is a phrase  
19 that is used in this -- in any sort of  
20 distribution.

21 Q. What was your -- you say  
22 that you know it was a phrase. But what  
23 is it -- are you -- did you ever deal  
24 with implementing "know your customer"

1 concepts in the industry?

2 A. No.

3 Q. Did you have any involvement  
4 yourself with diversion of  
5 pharmaceuticals in your work?

6 A. No.

7 MR. WEINSTEIN: Objection to  
8 form.

9 THE WITNESS: Sorry. I was  
10 trying to prevent a bad answer.  
11 No, I've not.

12 BY MR. STEWART:

13 Q. Did you ever have meetings  
14 to discuss diversion of opioids --

15 A. No.

16 Q. -- with your --

17 MR. WEINSTEIN: Wait until  
18 he finishes the question.

19 THE WITNESS: Sorry.

20 BY MR. STEWART:

21 Q. Did you ever -- did you ever  
22 talk about best practices for dealing  
23 with the diversion, you yourself within  
24 the organization?

1 A. No.

2 Q. Are you familiar with any  
3 initiatives taken within your  
4 organization to combat diversion of  
5 opioids or other drugs?

6 A. I think we've always talked  
7 about potential solutions that -- across  
8 the industry that could help with  
9 diversion or abuse of medicines.

10 Q. You say we've always talked  
11 about. Where would you talk about that?

12 A. That would be in any  
13 conversation, that would be in our public  
14 policy council or our executive  
15 committee.

16 Q. And what was your  
17 involvement with your public policy  
18 council?

19 A. I am a listener.

20 Q. So you were at the meetings?

21 A. I was at --

22 MR. WEINSTEIN: Objection to  
23 form.

24 THE WITNESS: -- some of the

1 meetings.

2 BY MR. STEWART:

3 Q. Were you at any meetings  
4 that focused on diversion of opioids?

5 A. I can't say that I was.

6 Q. Do -- do those meetings have  
7 minutes?

8 MR. WEINSTEIN: Objection to  
9 form.

10 THE WITNESS: I believe our  
11 board and executive committee and  
12 council meetings all have minutes.

13 BY MR. STEWART:

14 Q. So we could look at the  
15 minutes to figure out whether or not  
16 diversion was a subject. Is that fair?

17 A. The prevention of diversion,  
18 sure.

19 Q. I'd like to turn your  
20 attention to one -- one more paragraph.  
21 Turn to Page 106 of this document.  
22 That's the stated page number.

23 Do you see that?

24 A. Yes, I do.

1 Q. Is that the second page of  
2 Exhibit 11, it has 106 at the top?

3 A. Yes.

4 Q. Just to be clear, if you  
5 turn to the front page of Exhibit 11,  
6 sir, Page Number 105?

7 A. Yes.

8 Q. Okay. Now, do you see at  
9 the top of 106, the first paragraph says,  
10 "Because the advanced systems now in  
11 place and the industry's proactive  
12 efforts, the DEA reported last year that  
13 since 2006 and 2011, distributors in this  
14 country stopped shipping controlled  
15 substances to more than 1,500 customers  
16 that could have posed an unreasonable  
17 risk of diversion."

18 Do you see that?

19 A. I do.

20 Q. Were you aware of that?

21 A. I -- I can't say when I  
22 became aware of it. I see it written  
23 here. I was probably aware of it.

24 Q. And within your

1 organization, is it just understood that  
2 distributors can stop shipping controlled  
3 substances to customers if they pose an  
4 unreasonable risk of diversion?

5 MR. WEINSTEIN: Objection to  
6 form.

7 THE WITNESS: I -- I don't  
8 know -- I -- it's understood that  
9 they can, yes.

10 (Document marked for  
11 identification as Exhibit  
12 HDA-Fri-12.)

13 BY MR. STEWART:

14 Q. I'm going to hand you a  
15 document marked Exhibit 12.

16 Do you see that you have  
17 Exhibit 12 in front of you, and it looks  
18 like -- or at the very top of the  
19 document it's got the HDA logo?

20 A. Yes.

21 Q. Do you see that?

22 A. Yes.

23 Q. Then do you see it's  
24 entitled, "Prescribing Patterns and the

1     Opioid Epidemic"?

2             A.     Yes.

3             Q.     Have you ever seen this  
4     document before?

5             A.     I don't believe I have.

6             Q.     Can you turn down to the  
7     very bottom, the last bullet in the  
8     document. Do you see where there's a  
9     bullet that states, "Patients of 'high  
10    intensity' prescribers are more likely to  
11    have long-term reliance on opioids,  
12    creating serious risk of misuse or  
13    overdose"?

14            A.     I see it, yes.

15            Q.     Okay. And is that something  
16    you're familiar with, is that a concept  
17    you're familiar with?

18                   MR. WEINSTEIN: Objection to  
19                   form. Objection to scope as to  
20                   the whole -- this whole line of  
21                   questioning.

22                   THE WITNESS: Yeah, this is  
23                   not areas where I work or -- or  
24                   have specific knowledge.

1 BY MR. STEWART:

2 Q. Be that as it may, it sounds  
3 like you are in a lot of meetings. And I  
4 guess my question would be, while you've  
5 been working within the HDA, have you  
6 ever heard discussed the fact that  
7 patients of high intensity prescribers  
8 are more likely to have long-term  
9 reliance on opioids, creating a serious  
10 risk of misuse and overdose?

11 MR. WEINSTEIN: Objection to  
12 form.

13 THE WITNESS: I can't  
14 remember having a specific  
15 discussion about that.

16 BY MR. STEWART:

17 Q. Who in your organization,  
18 the HDA, would probably have the best  
19 knowledge of the -- the nature of high  
20 intensity prescribers and the risks that  
21 they pose?

22 MR. WEINSTEIN: Objection to  
23 form.

24 THE WITNESS: I don't know

1           that we would. This appears to be  
2           based on secondary research and so  
3           it references two other reports,  
4           at least. So I don't know that we  
5           have specific information, but  
6           we're pointing to data.

7       BY MR. STEWART:

8           Q.       Well, what person would  
9           supervise the putting together of the  
10          information that is in Exhibit 12 within  
11          the HDA?

12                   MR. WEINSTEIN: Objection to  
13          form.

14                   THE WITNESS: A document  
15          like this would be probably  
16          managed by John Parker who runs  
17          our communications department.

18       BY MR. STEWART:

19           Q.       Is there a scientific source  
20          within the HDA that's responsible for  
21          making sure that when the HDA makes  
22          statements like the one in Exhibit 12,  
23          that they are true and accurate?

24                   MR. WEINSTEIN: Objection to

1 form.

2 THE WITNESS: No.

3 BY MR. STEWART:

4 Q. Is there a process for  
5 vetting statements like the one in front  
6 of you that's Exhibit 12 to make sure  
7 they're fair and accurate?

8 MR. WEINSTEIN: Objection to  
9 form.

10 THE WITNESS: In the work  
11 that I do, we have a process for  
12 doing that. I'm not sure how this  
13 would have been done.

14 BY MR. STEWART:

15 Q. What is the process that  
16 you're familiar with?

17 A. We worked directly with  
18 secondary research with CDC and IQVIA and  
19 others where we directly communicate with  
20 them to collect and accurately identify  
21 their data.

22 Q. Fair to say when HDA puts  
23 out a paper of the sort that you see in  
24 Exhibit 12, it's intended to be accurate?

1 A. Yes.

2 Q. It's in -- reports of the  
3 sort that are in Exhibit 12 are intended  
4 to be reliable, fair?

5 A. Fair.

6 Q. Can you look at the actual  
7 studies that are cited here below the  
8 bullet point talking about high intensity  
9 prescribers?

10 Do you see those studies,  
11 which are the last two paragraphs at the  
12 bottom of the first page of Exhibit 12?

13 A. I do see that.

14 Q. Okay. Are you familiar with  
15 either of those studies?

16 A. I am not.

17 Q. Who in your organization  
18 would be -- who would have the most  
19 knowledge about medical studies of the  
20 sort that are cited here in this HDA  
21 document?

22 MR. WEINSTEIN: Objection to  
23 form.

24 THE WITNESS: I don't know

1           that there -- I don't know that  
2           there's anyone in our organization  
3           that would have regular knowledge  
4           of medical studies.

5       BY MR. STEWART:

6           Q.       So within the HDA, you are  
7           not familiar with anybody who has a  
8           regular knowledge of medical studies?

9                   MR. WEINSTEIN:  Objection.

10                  THE WITNESS:  Correct.

11                  MR. WEINSTEIN:  Objection to  
12           form on that last one.

13                   (Document marked for  
14           identification as Exhibit  
15           HDA-Fri-13.)

16       BY MR. STEWART:

17           Q.       I'll hand you Exhibit 13.  
18           Do you see that you've got in front of  
19           you Exhibit 13, and it's -- it's entitled  
20           a fact sheet?

21                  A.       Yes.

22           Q.       Do you see that it's  
23           entitled "Fighting an Epidemic:  
24           Combatting Prescription Drug Abuse and

1 Diversion"?

2 A. Yes.

3 Q. Do you see it's got the HDA  
4 logo on it?

5 A. Yes.

6 Q. Are you familiar with this  
7 document?

8 A. I can't say that I've seen  
9 this specifically.

10 Q. Are you familiar with this  
11 general information being put out by HDA  
12 regarding fighting prescription drug  
13 abuse and diversion?

14 MR. WEINSTEIN: Objection to  
15 form.

16 THE WITNESS: Generally,  
17 yes.

18 BY MR. STEWART:

19 Q. Okay. Do you see at the  
20 bottom of the page, last bullet, there's  
21 a statement that says, "We take steps to  
22 'know our customers,' including actively  
23 assessing and reviewing purchases from  
24 pharmacies and healthcare providers that

1 order controlled substances to monitor  
2 and report to the DEA if a customer's  
3 controlled substances volume or pattern  
4 of ordering might signal inappropriate  
5 use of the product. If inappropriate use  
6 is suspected, distributors work  
7 proactively with the DEA, local law  
8 enforcement, and others to help in the  
9 investigation of potential diversion  
10 cases."

11 Do you see that?

12 A. I do.

13 Q. Who would be responsible  
14 within the HDA for making sure that a  
15 statement in this document, Exhibit 13,  
16 like the one I just read, is truthful,  
17 accurate, and reliable?

18 MR. WEINSTEIN: Objection to  
19 form.

20 THE WITNESS: Again, this is  
21 probably managed by our  
22 communications department. And it  
23 would receive legal review from  
24 inside as well as outside counsel.

1           And this presumably is based on  
2           elements of what is required under  
3           the law. So it could be -- I  
4           don't know who would do it.

5       BY MR. STEWART:

6           Q.     But if you had to identify a  
7           human being who would be responsible for  
8           making sure that every statement made in  
9           Exhibit 13 is true, accurate, and  
10          reliable, who would that be?

11               MR. WEINSTEIN: Objection to  
12           form.

13               THE WITNESS: This is  
14           developed by our communications  
15           department, so I would presume it  
16           would be John Parker.

17       BY MR. STEWART:

18           Q.     And it talks about the  
19           statements, bullet points, you see they  
20           say "we." It looks like that "we" is  
21           pharmaceutical distributors. Is that a  
22           fair reading of this document?

23               MR. WEINSTEIN: Objection to  
24           form.

1 THE WITNESS: Based on the  
2 way it's worded, I would assume  
3 that is correct.

4 (Document marked for  
5 identification as Exhibit  
6 HDA-Fri-14.)

7 BY MR. STEWART:

8 Q. I'll hand you Exhibit 14.  
9 How many -- do you have in front of you a  
10 document entitled -- or identified as  
11 Exhibit 14, which is entitled "Trends in  
12 Opioid Use: History, Background, and  
13 Origins of the Epidemic"?

14 A. Yes.

15 Q. Is this a document that  
16 you're familiar with?

17 A. I am generally familiar with  
18 the fact that we did this report.

19 Q. Okay. You say "we." You're  
20 talking about the HDA, fair?

21 A. Avalere did this report.  
22 We -- it was, as it says here, conducted  
23 on behalf of HDA, but Avalere retained  
24 the full editorial control of the

1 document.

2 Q. Avalere is a consulting  
3 firm?

4 A. I believe so.

5 Q. HDA paid Avalere to produce  
6 this report?

7 A. I believe so.

8 Q. Okay. Have you ever  
9 reviewed the report?

10 A. I have not.

11 Q. I take it HDA has  
12 published -- it's a published report now,  
13 fair?

14 A. It was published, yes, by  
15 Avalere.

16 Q. So the fact that HDA  
17 retained Avalere and allowed this to be  
18 published, it's intended to be an  
19 accurate report, fair?

20 MR. WEINSTEIN: Objection to  
21 form.

22 THE WITNESS: I can't  
23 imagine why Avalere independently  
24 would create an inaccurate report.

1 BY MR. STEWART:

2 Q. Well, you're talking  
3 Avalere, but HDA stands behind this  
4 report, right?

5 MR. WEINSTEIN: Objection to  
6 form.

7 THE WITNESS: I believe  
8 we -- I believe we funded the  
9 report. But the report was done  
10 independently by Avalere.

11 BY MR. STEWART:

12 Q. If I wanted to question  
13 someone at the HDA -- well, put it this  
14 way: Who at the HDA would have been  
15 responsible for supervising the creation  
16 of this report and the hiring of Avalere?

17 MR. WEINSTEIN: Objection to  
18 form.

19 THE WITNESS: It would have  
20 had something to do with Patrick  
21 Kelly or John Parker in our  
22 office.

23 BY MR. STEWART:

24 Q. So John Parker and Patrick

1 Kelly, one of the two or both would be  
2 the people to talk about this report,  
3 fair?

4 A. Correct. Or Avalere, who  
5 published the report.

6 (Document marked for  
7 identification as Exhibit  
8 HDA-Fri-15.)

9 BY MR. STEWART:

10 Q. I'll hand you Exhibit 15.  
11 Are you familiar with that document?

12 A. Not specifically.

13 Q. You say not specifically.  
14 What do you mean by that?

15 A. I'm familiar with Allied  
16 Against Opioid Abuse. I'm not familiar  
17 with this specific document.

18 Q. What's Allied Against Opioid  
19 Abuse?

20 A. It's -- I think I mentioned  
21 earlier, it's an alliance of various  
22 groups that have an interest in educating  
23 patients on potential for abuse and safe  
24 disposal of medicines.

1 Q. And allied against opioid  
2 abuse puts out materials, fair?

3 MR. WEINSTEIN: Objection to  
4 form and objection to scope as to  
5 this line of questioning.

6 THE WITNESS: Yeah because I  
7 don't do anything with allied  
8 against opioid abuse.

9 BY MR. STEWART:

10 Q. Okay. So, all right. So  
11 who would we talk to about Allied Against  
12 Opioid Abuse within your organization?

13 A. John Parker.

14 (Document marked for  
15 identification as Exhibit  
16 HDA-Fri-16.)

17 MR. WEINSTEIN: Can I get a  
18 copy of that, Mike?

19 MR. STEWART: Oh, yeah.

20 Pardon.

21 BY MR. STEWART:

22 Q. I've handed you Exhibit 16.  
23 Are you familiar with this document?

24 A. Generally.

1 Q. And this is an HDA  
2 statement, Exhibit 16, in response to  
3 Washington Post article?

4 A. Presumably.

5 MR. WEINSTEIN: Objection to  
6 scope as to this line of  
7 questions.

8 BY MR. STEWART:

9 Q. Who would have put out this  
10 response?

11 MR. WEINSTEIN: Objection to  
12 form.

13 THE WITNESS: This would  
14 have been managed by our  
15 communications department.

16 BY MR. STEWART:

17 Q. Let me ask you something.  
18 How much familiarity do you have with the  
19 information held by distributors with  
20 respect to the distribution of  
21 pharmaceuticals to pharmacies and then  
22 end users?

23 MR. WEINSTEIN: Objection to  
24 form.

1 THE WITNESS: We don't deal  
2 at all with the dispensing of  
3 medicines to end users.

4 If you generally ask what  
5 knowledge do I have of systems and  
6 processes in the distribution of  
7 medicines, I have a reasonable  
8 amount of knowledge of the supply  
9 chain and how it works.

10 BY MR. STEWART:

11 Q. Sure. Could you tell me, I  
12 mean, your distributors, right, provide  
13 information to drug manufacturers  
14 systematically, is that fair?

15 MR. WEINSTEIN: Objection to  
16 form.

17 THE WITNESS: It depends on  
18 their contractual agreements, I  
19 believe.

20 BY MR. STEWART:

21 Q. Okay. But many have  
22 contractual agreements whereby they --  
23 they pass on to the manufacturers  
24 information about the drugs that are

1 distributed to particular pharmacies, is  
2 that fair?

3 A. They -- not about the drugs.  
4 They provide information about inventory  
5 levels, fill rates, sales volumes and  
6 such.

7 Q. And that information is  
8 typically provided for -- for -- on a  
9 national level, is that fair?

10 MR. WEINSTEIN: Objection to  
11 form.

12 THE WITNESS: No.

13 BY MR. STEWART:

14 Q. Well, let me put it this  
15 way --

16 A. It's -- it's --

17 Q. Go ahead.

18 A. It's distributor specific  
19 information.

20 Q. It's provided typically for  
21 example, if you have a distributor, a  
22 distributor distributes in a particular  
23 region?

24 A. Yes.

1           Q.       And typically a distributor  
2       will provide manufacturers, according to  
3       these arrangements, the distribution  
4       information related to their region?

5                   MR. WEINSTEIN:  Objection to  
6       form.

7                   MS. CHARLES:  Objection.  
8       Foundation.

9                   THE WITNESS:  Presumably.  I  
10       don't know specifically, but I do  
11       know that there are methods for  
12       exchanging information.

13       BY MR. STEWART:

14           Q.       Can you tell me what you  
15       know about those methods?

16                   MR. WEINSTEIN:  Objection to  
17       form.

18                   THE WITNESS:  They use an  
19       EDI transaction site, called an  
20       867.  And it provides sale volumes  
21       and -- and inventory levels and  
22       fill rates.

23       BY MR. STEWART:

24           Q.       So if I'm a manufacturer and

1 I'm trying to find out sales volumes for  
2 a particular drug in the state of  
3 Tennessee, what level of detail do you  
4 understand that I can receive?

5 A. I don't know.

6 MR. WEINSTEIN: Objection to  
7 form and foundation.

8 BY MR. STEWART:

9 Q. Who in your organization  
10 would be the expert on that particular  
11 sort of information sharing?

12 A. Me.

13 Q. Okay. So what do you know  
14 about it?

15 MR. WEINSTEIN: Objection to  
16 form.

17 THE WITNESS: I don't know  
18 specifically.

19 BY MR. STEWART:

20 Q. Well, give me -- give me  
21 then, if I'm -- what -- what is your  
22 understanding of the information about  
23 the distribution of --

24 A. We've -- we've helped create

1 a guideline for something called an EDI  
2 867 transaction, which provides -- which  
3 can provide sales data, inventories, and  
4 fill rates back to the manufacturer.

5 I don't know how fully  
6 everyone uses them. I don't know to what  
7 level of detail they go to. I don't know  
8 why manufacturers would look at it in a  
9 specific way.

10 Q. So the point is, we could  
11 look at your guidelines that the HDA  
12 approved, to understand your  
13 understanding of -- of the sort of  
14 information that is available if  
15 manufacturers choose to get it?

16 MR. WEINSTEIN: Objection to  
17 form.

18 THE WITNESS: If  
19 manufacturers and their customer  
20 distributors choose to exchange  
21 it, yes.

22 BY MR. STEWART:

23 Q. Is it your understanding  
24 that most actors in the industry follow

1     your guideline?

2                     MR. WEINSTEIN:  Objection to  
3                     form and foundation.

4                     THE WITNESS:  I have no  
5                     understanding of how many people  
6                     follow our guidelines.

7     BY MR. STEWART:

8                     Q.     So you haven't evaluated  
9                     that, whether or not your guideline is  
10                    being used by the members of the HDA or  
11                    not?

12                    A.     Correct.  Again, it's not a  
13                    standard.  So we don't have a requirement  
14                    for usage.

15                    Q.     Let's look at this document  
16                    for a moment.

17                             Do you see on the second  
18                    page of the document, which is marked 2  
19                    of 6?

20                    A.     Yes, sir.

21                    Q.     There is a statement which  
22                    is the first sentence of the last  
23                    paragraph, "Pharmaceutical distributors  
24                    have no mechanism to increase demand or

1 patient's use of opioids"?

2 A. I'm sorry, which -- where  
3 are you?

4 Q. Do you see there's a  
5 statement, "Pharmaceutical distributors  
6 have no mechanism to increase demand or  
7 patient's use of opioid."

8 A. Correct.

9 Q. But one thing,  
10 pharmaceutical distributors, I think  
11 you've already testified, certainly have  
12 the ability to stop distributing  
13 particular drugs to particular pharmacies  
14 if they decide those pharmacies are  
15 engaged in diversion, fair?

16 MR. PYSER: Object to form.

17 THE WITNESS: My  
18 understanding is that they can  
19 limit shipments for a variety of  
20 reasons.

21 BY MR. STEWART:

22 Q. But I mean, that's one of  
23 the reasons, right?

24 MR. WEINSTEIN: Objection to

1 form.

2 THE WITNESS: Sure.

3 BY MR. STEWART:

4 Q. I mean, if -- if a  
5 distributor decides that part of the  
6 demand for drugs is a particular pharmacy  
7 that's not -- that -- that is engaged in  
8 diversion, the distributor can cut off a  
9 particular drug, such as opioids that may  
10 be diverted, fair?

11 MR. WEINSTEIN: Objection to  
12 form.

13 THE WITNESS: I think there  
14 are a variety of reasons why they  
15 can make any sort of decision.  
16 I'm not familiar with their  
17 criteria or the construction of  
18 their decision tree.

19 BY MR. STEWART:

20 Q. But certainly if they -- if  
21 they find that a pharmacy is engaged in  
22 diversion, they have the power to cut  
23 that pharmacy off?

24 MR. WEINSTEIN: Objection to

1 form.

2 THE WITNESS: Presumably  
3 they are engaged with DEA or other  
4 law enforcement officials to  
5 research that.

6 BY MR. STEWART:

7 Q. And the point is, just so we  
8 have a clear record. But the answer is  
9 yes, they can cut that pharmacy off,  
10 right?

11 MR. WEINSTEIN: Same  
12 objection.

13 THE WITNESS: Presumably.  
14 But I don't know their systems or  
15 what they do.

16 BY MR. STEWART:

17 Q. And when you say you don't  
18 know their systems, you're saying I don't  
19 know the exact systems they use to decide  
20 what pharmacies should be cut off and  
21 what pharmacies should be allowed to  
22 dispense?

23 A. Correct.

24 Q. Is that the systems that

1       you're referring to?

2                   A.       Yeah, we don't know how  
3       their -- their systems operate.

4                   Q.       We would have to talk to  
5       each distributor about that, to know  
6       precisely when they decide to stop giving  
7       drugs to a particular pharmacy because of  
8       diversion concerns?

9                   MR. WEINSTEIN:   Objection to  
10       form.

11                   THE WITNESS:   Presumably.

12       BY MR. STEWART:

13                   Q.       Do you know if within your  
14       organization, do you recall being in  
15       meetings where you talked about best  
16       practices for whereby distributors should  
17       cut off pharmacies engaged in diversion?

18                   MR. WEINSTEIN:   Objection to  
19       form.

20                   THE WITNESS:   No.

21                   MR. WEINSTEIN:   And scope.

22       BY MR. STEWART:

23                   Q.       I'd like to turn to another  
24       sentence.   Turn to Page 3 of 6.

1 Do you see the third  
2 paragraph down including the headings,  
3 there's a statement, "While distributors  
4 must report each controlled substance  
5 order that is filled and those that are  
6 deemed suspicious to the DEA, a  
7 distributor only knows what it ships to a  
8 particular dispenser"?

9 A. Yes.

10 Q. Okay. And the point is, I  
11 think you already said this, distributors  
12 are responsible for reporting orders that  
13 are deemed suspicious to the DEA, fair?

14 MR. WEINSTEIN: Objection to  
15 form. Objection. Scope.

16 THE WITNESS: That's my  
17 understanding, but in this case,  
18 we're talking about all orders of  
19 controlled substances.

20 BY MR. STEWART:

21 Q. But they don't -- okay.  
22 Tell me -- tell me what you just meant by  
23 that statement.

24 A. What I meant? So I

1 apologize. I meant exactly what it says.  
2 Distributors must report each controlled  
3 substance order that is filled to the DEA  
4 as well as those that are deemed  
5 suspicious.

6 Q. Right. They don't just  
7 report wholesale. Their second  
8 obligation, independent or an additional  
9 obligation, is to identify within the  
10 range of reported transactions which ones  
11 are suspicious, fair?

12 MR. WEINSTEIN: Objection to  
13 form.

14 THE WITNESS: That's --  
15 that's what it says.

16 BY MR. STEWART:

17 Q. And that's correct, right?

18 MR. WEINSTEIN: Same  
19 objection.

20 THE WITNESS: Presumably.

21 BY MR. STEWART:

22 Q. Well, you say presumably.  
23 It's going to be important for the jury  
24 to know. The point is, a distributor has

1 two obligations. A distributor is  
2 obligated to report each controlled  
3 substances order. But then there's an  
4 obligation that a distributor report --  
5 and I'm using the exact language in the  
6 HDA materials -- those that are deemed  
7 suspicious to the DEA, fair?

8 MR. WEINSTEIN: Objection to  
9 form, foundation, and scope.

10 THE WITNESS: It's what it  
11 says.

12 BY MR. STEWART:

13 Q. And that's correct? That's  
14 your understanding?

15 A. Sure.

16 Q. Now look at the --

17 MR. WEINSTEIN: Same  
18 objections to the last question.

19 BY MR. STEWART:

20 Q. Now look at the last  
21 paragraph, and I want you to look at the  
22 last sentence at the bottom of the page.  
23 Do you see, it says, "Despite many  
24 requests for clarity, the DEA too often

1 did not help pharmacies, doctors, and  
2 distributors understand exactly how the  
3 DEA wanted them to operate and what  
4 information the DEA wanted them to  
5 report."

6 Do you see that sentence?

7 A. I do see it.

8 Q. Do you know what -- what  
9 your organization is saying about the  
10 DEA? Is the organization blaming the DEA  
11 for -- for failures of distributors to  
12 control diversion?

13 MR. WEINSTEIN: Objection to  
14 form and to scope.

15 THE WITNESS: I wasn't  
16 involved in developing this  
17 document. A lot of these  
18 conversations take place in the  
19 government affairs side of our  
20 business. So how we frame or  
21 produce any of this, is not really  
22 what I do. So I wouldn't assume  
23 how they meant it.

24 BY MR. STEWART:

1           Q.     Have you ever been aware of  
2     a time since you've been involved with  
3     the pharmaceutical industry that the DEA  
4     did not make it clear that distributors  
5     had an obligation to limit and prevent  
6     diversion?

7                     MR. WEINSTEIN:  Objection to  
8     form, foundation, and scope.

9                     THE WITNESS:  I think there  
10    has always been problems with  
11    transparency and clarity with the  
12    DEA, is my understanding.

13  BY MR. STEWART:

14           Q.     Well, despite all that  
15    though, I take it there's never been a  
16    challenge such that the industry -- well,  
17    strike that.

18                     I take it everybody in the  
19    industry has always known that the DEA  
20    required that participants in the  
21    distribution of pharmaceuticals take  
22    reasonable steps to prevent diversion,  
23    fair?

24                     MR. WEINSTEIN:  Objection to

1 form, foundation, and scope.

2 THE WITNESS: Again, I'm not  
3 involved in that side. I  
4 understand that there's a law and  
5 regulations associated with it.  
6 But I'm not specifically --  
7 specifically understanding of what  
8 they are.

9 BY MR. STEWART:

10 Q. But you are understanding --  
11 even in your general understanding, you  
12 know that distributors of pharmaceuticals  
13 have always been required to prevent  
14 diversion of drugs, right?

15 MR. WEINSTEIN: Objection to  
16 form.

17 THE WITNESS: They have  
18 responsibilities to ship directly  
19 to their dispensing -- to their  
20 dispensing customers and whatever  
21 reporting requirements they have  
22 to DEA.

23 BY MR. STEWART:

24 Q. Yeah. I mean, there's never

1     been a time when a distributor could just  
2     distribute drugs to a company that  
3     they -- to a pharmacy that the  
4     distributor knew was participating in  
5     diversion, right?

6                   MR. WEINSTEIN:  Objection to  
7     scope.

8                   THE WITNESS:  Correct.  My  
9     understanding is correct.

10                  MR. PYSER:  Object to form.

11                  MR. STEWART:  Let me ask you  
12     something.  Has this organization  
13     executed -- I'm asking counsel --  
14     a protective order in this case?

15                  MR. WEINSTEIN:  In the MDL  
16     it has.

17                  MR. STEWART:  Okay.  And so  
18     it's obligated itself not to  
19     disclose materials related to this  
20     litigation pursuant to the MDL  
21     protective order?

22                  MR. WEINSTEIN:  That's my  
23     understanding.  I mean -- you  
24     know, I haven't seen it in a

1                   while, but...

2                               (Document marked for  
3                   identification as Exhibit  
4                   HDA-Fri-17.)

5       BY MR. STEWART:

6               Q.       I'm going to hand you  
7       Exhibit 17.   And this is a highly  
8       confidential document.

9                   MR. WEINSTEIN:   Do you have  
10                  an extra copy of that?

11                  MR. CLUFF:   Yeah.   Sorry.

12                  MR. STEWART:   Oh, pardon me.

13                  MS. ROLLINS:   What's the  
14                  Bates number on that?

15                  MR. CLUFF:

16                  MNK-T1\_0004197986 begins the  
17                  document.

18       BY MR. STEWART:

19               Q.       And here's my only question  
20       with respect to the document.   Could you  
21       turn to Page MNK-T1\_0004198034.

22                       Do you see that?

23               A.       I do.

24               Q.       And my question is, do you

1 see there's a reference to IMS controlled  
2 substances ratings?

3 A. I do.

4 Q. It says, "IMS's controlled  
5 substances ratings links pharmacy  
6 dispensing with anonymized patients."

7 A. I see that.

8 Q. Are you familiar with IMS  
9 controlled substance ratings?

10 A. I'm familiar with IMS, but  
11 not their controlled substances ratings.

12 Q. What's IMS?

13 A. IMS is now known as IQVIA.  
14 It's an industry consulting and analytics  
15 firm.

16 Q. Are you familiar with the  
17 information IMS collects on the  
18 distribution of opioids in the United  
19 States?

20 A. They collect information on  
21 all sorts of medicines, manufacture and  
22 sale of medicines, including opioids.

23 Q. But you're not familiar with  
24 their particular controlled substances

1 ratings?

2 A. I am not.

3 Q. You don't ever remember  
4 discussing that?

5 A. I do not.

6 Q. Did you have, within your  
7 organization, a point of contact with  
8 IMS?

9 MR. WEINSTEIN: Objection to  
10 form.

11 THE WITNESS: Yes.

12 BY MR. STEWART:

13 Q. Who was that?

14 A. Me.

15 Q. Do you see -- turn to the  
16 second page of this document. Do you see  
17 it's prepared for HDMA by Doug Long?

18 A. I do.

19 Q. Okay. That's your  
20 organization and a previous name, HDMA,  
21 right?

22 A. Correct.

23 Q. Who is Doug Long?

24 A. Doug Long is an employee of

1 IQVIA, then IMS Health.

2 Q. Okay. So this was a  
3 document that was prepared for you?

4 A. It was a document that was a  
5 presentation that was presented at our  
6 education conference in 2014.

7 Q. Now, turn -- and why would  
8 Mr. Long have been asked to prepare this  
9 presentation at your conference?

10 MR. WEINSTEIN: Objection to  
11 form. And objection to scope as  
12 to this whole line of questioning.

13 THE WITNESS: Doug is  
14 regularly asked to present  
15 education to the industry about  
16 trends in -- or market trends on  
17 pharmaceutical products.

18 BY MR. STEWART:

19 Q. And turn back to the page  
20 that we were looking at, Page 34 of this  
21 document.

22 A. Mm-hmm.

23 Q. Do you see there's a  
24 statement that "the IMS controlled

1 substances ratings identify outlets and  
2 prescribers that have higher than normal  
3 controlled substance usage and may  
4 warrant additional investigation"?

5 A. I see that.

6 Q. Okay. But I take it if Doug  
7 Long puts that in materials, you'd assume  
8 that that's an accurate description of  
9 these controlled substances ratings?

10 MR. WEINSTEIN: Objection to  
11 form, foundation, and scope.

12 THE WITNESS: I have no idea  
13 what their ratings are.

14 Presumably it's a separate service  
15 that they offered to distributors  
16 or manufacturers.

17 BY MR. STEWART:

18 Q. Would you think if Doug Long  
19 is presenting materials at a conference  
20 for your organization, that he intends  
21 them to be reliable?

22 MR. WEINSTEIN: Objection to  
23 form, foundation, and scope.

24 THE WITNESS: I have always

1 expected that, yes.

2 BY MR. STEWART:

3 Q. And you are just not  
4 familiar with the details of this  
5 particular IMS product --

6 A. Correct.

7 Q. -- is that fair?

8 A. Yeah.

9 Q. And when I say particular  
10 IMS product, I'm talking about the  
11 product discussed on Page 34 of this  
12 Exhibit 17, the IMS controlled substance  
13 ratings?

14 A. Correct.

15 Q. I'm going to hand you  
16 Exhibit 18.

17 (Document marked for  
18 identification as Exhibit  
19 HDA-Fri-18.)

20 BY MR. STEWART:

21 Q. And do you see that there's  
22 some meeting notes from a Buzzeo DEA  
23 conference, Washington DC, October 27,  
24 2008?

1 A. I can see that.

2 Q. Are you familiar with this?

3 A. No.

4 Q. Okay. You see it says,  
5 "Topic: Suspicious Order Monitoring  
6 Process."

7 Are you familiar with that?

8 A. I --

9 MR. WEINSTEIN: Objection to  
10 form.

11 THE WITNESS: I can see the  
12 topic.

13 BY MR. STEWART:

14 Q. But are you familiar, is  
15 that something you would have been  
16 involved in?

17 A. No.

18 Q. Okay. Who in your  
19 organization would -- would be the person  
20 to ask about this conference?

21 MR. WEINSTEIN: Objection to  
22 form.

23 THE WITNESS: I don't know  
24 that -- I don't know who would

1           have gone to this from an HDA  
2           standpoint.

3       BY MR. STEWART:

4           Q.     You may have answered this,  
5       but when we are talking suspicious order  
6       monitoring, who within your organization  
7       would be the expert on that?

8                     MR. WEINSTEIN:  Objection.

9       BY MR. STEWART:

10          Q.     Or the person with the most  
11       knowledge?

12                    MR. WEINSTEIN:  Objection to  
13       form.

14                    THE WITNESS:  We don't know  
15       anything specifically about our  
16       suspicious order monitoring  
17       programs that -- that our members  
18       have.  So I don't know how to  
19       answer that.

20       BY MR. STEWART:

21          Q.     Well, within your  
22       organization, the organization of  
23       distributors of pharmaceuticals, so in  
24       the whole United States, who -- who would

1 have the best knowledge of suspicious  
2 order monitoring programs?

3 MR. WEINSTEIN: Objection to  
4 form.

5 THE WITNESS: I don't -- so  
6 again, what -- under whatever  
7 requirements our members have  
8 under law and regulation, they  
9 develop their own suspicious order  
10 monitoring programs and we're not  
11 privy to what those programs are.

12 BY MR. STEWART:

13 Q. I understand that. But I --  
14 I don't think your testimony is that your  
15 organization, the HDA, doesn't have  
16 anybody that is -- that understands and  
17 takes an interest in suspicious order  
18 monitorings -- monitoring programs and  
19 best industry practices, right?

20 You must have somebody that  
21 pays attention to that and cares about  
22 it, fair?

23 A. As a -- presumably as a  
24 general topic that would fall under

1 government affairs and that would be  
2 Patrick Kelly.

3 Q. So you think he would be the  
4 person that would have the best  
5 knowledge?

6 A. Yeah, I think it would be --  
7 maybe minutially better than mine.

8 MS. ROLLINS: I'm sorry.  
9 Can you please read the Bates  
10 stamp into the record?

11 MR. CLUFF: Exhibit 18 was  
12 MNK\_TNSTA05292267.

13 (Document marked for  
14 identification as Exhibit  
15 HDA-Fri-19.)

16 BY MR. STEWART:

17 Q. Handing you Exhibit 19.  
18 I'll ask you, are you familiar with the  
19 document that's Exhibit 19?

20 A. I'm not familiar with the  
21 specific document. But we often present  
22 a -- an education session at our  
23 conference that's called "State of the  
24 States."

1           Q.       And what's the purpose of  
2       the "State of the States" presentation,  
3       typically at your conferences?

4           A.       To provide information to  
5       our attendees about the activities of our  
6       state affairs department.

7           Q.       What does your state affairs  
8       department do in terms of participating  
9       in the law making in different states?

10          A.       When there are laws or  
11       regulations that impact our industry,  
12       then our state affairs team will address  
13       them in whatever way our members ask us  
14       to, from the advocacy standpoint.

15          Q.       All right. Did I -- do you  
16       go so far at times as to take litigation  
17       positions with respect to particular  
18       state statutes?

19                   MR. WEINSTEIN: Objection to  
20       scope on this whole line of  
21       questioning.

22                   THE WITNESS: So again, I'm  
23       not involved with our government  
24       affairs or legal aspect. Under --

1           my knowledge recently, we've only  
2           taken one litigation action in a  
3           state.

4       BY MR. STEWART:

5           Q.       Tell me what that was.

6           A.       It had to do with the tax  
7           assessment in the state of New York.

8           Q.       I take it among the states  
9           that your organization looks at is  
10          Tennessee, fair?

11                   MR. WEINSTEIN:  Objection to  
12          form.

13                   THE WITNESS:  I don't -- I'm  
14          not involved with our state  
15          affairs department.  But  
16          presumably Tennessee is part of  
17          their purview.

18       BY MR. STEWART:

19           Q.       So we'd have to talk to the  
20          state affairs folks to figure out what if  
21          anything they've done in Tennessee with  
22          respect to for example, the opioid  
23          crisis?

24           A.       Sure.  And all of that

1 reports directly to Patrick Kelly.

2 (Document marked for  
3 identification as Exhibit  
4 HDA-Fri-20.)

5 BY MR. STEWART:

6 Q. I've handed you Exhibit 20,  
7 and I'll ask you if you recognize it.

8 You'll find I've fulfilled  
9 my obligation to state the Bates number,  
10 and it's Exhibit 20. Do you see it's  
11 Bates Number MNK\_TNSTA08439208?

12 Do you see that?

13 A. I see it.

14 Q. Okay. That's on the first  
15 page, the same page that's got the  
16 exhibit sticker, right?

17 A. Right.

18 Q. Okay. Now, are you familiar  
19 with the HDMA DMC Expo 2011?

20 A. Yeah. Our distribution  
21 management conference.

22 Q. Did you attend that?

23 A. I did.

24 Q. And you -- who would have

1 put together conference notes like this?

2 A. I honestly don't know.

3 Q. Is this typical for the  
4 organization that after a conference  
5 somebody will put together notes and  
6 explain what was -- you know, in general  
7 terms what happened?

8 A. Well, these are only for  
9 specific sessions, and not all the  
10 sessions were presented there.

11 So this clearly was someone  
12 with interest of -- on these particular  
13 sessions. So it was probably  
14 government -- government affairs of some  
15 kind. And again that reports up to  
16 Patrick.

17 Q. Do you all, do you have  
18 attendee lists for all your conferences,  
19 HDA conferences?

20 A. I have no idea who prepared  
21 these. The way it's written, it seems  
22 interesting.

23 Q. You're talking when you say  
24 I have no idea who prepared these, you're

1     talking about you have no idea who  
2     prepared the exhibit that's in front of  
3     you?

4             A.     Correct.

5             Q.     Okay. And what's the number  
6     of the exhibit?

7             A.     It's Exhibit 20.

8             Q.     So you just don't know who  
9     prepared that?

10            Let's step back to a  
11     different question.

12            Do you -- does the HDA keep  
13     records of who attends its conferences?

14            A.     We try to.

15            Q.     Who keeps track of those?  
16     Who stores those records?

17            A.     It's all stored in our  
18     database.

19            Q.     Is that a SharePoint, or  
20     what kind of database is it?

21            A.     It's called Net Forum.

22            Q.     Is there a particular person  
23     who is responsible for keeping track of  
24     that?

1           A.       We have a specific person  
2       who administratively handles the  
3       database.

4           Q.       Who is that?

5           A.       Lisa Gallagher who reports  
6       to me.

7           Q.       And is it typical when you  
8       have conferences for the presentations to  
9       be videotaped?

10          A.       We've never done that.

11          Q.       Does somebody maintain the  
12       presentations, the PowerPoints, and other  
13       presentation materials that speakers  
14       get -- put out?

15          A.       They would be in our  
16       conference folders, and if they allow us  
17       to share them, we share them with the  
18       attendees.

19          Q.       And those conference  
20       folders, are those physical or are they  
21       maintained in a database?

22          A.       They're maintained on a  
23       server, yes.

24          Q.       And how far back do you

1 think you've got conference folders for  
2 your conferences?

3 MR. WEINSTEIN: Objection.

4 THE WITNESS: I have no  
5 idea.

6 BY MR. STEWART:

7 Q. Certainly ten years, right?

8 MR. WEINSTEIN: Objection.

9 THE WITNESS: We've had a  
10 database conversion, system  
11 conversion. So I don't know if  
12 we've gone back that far for  
13 conference materials like this.

14 BY MR. STEWART:

15 Q. We would have to ask  
16 Ms. Gallagher, fair?

17 A. On the -- on -- on the  
18 attendee lists?

19 Q. Yeah.

20 A. We would have to simply ask  
21 a question of our database. And you guys  
22 have presumably already trolled through  
23 all our files. So they're there if they  
24 go back that far.

1 Q. Turn to the second page of  
2 this document. And it's marked with a  
3 Bates number that ends in 209.

4 Do you see that?

5 A. I do.

6 Q. Do you see there's a bullet  
7 point. It's the third bullet point.  
8 It's entitled "Rogue Pain Clinics in  
9 Florida."

10 A. Mm-hmm.

11 Q. Do you see that?

12 A. I do.

13 Q. Do you see it says, "Problem  
14 is now migration. Vast majority of  
15 patients are visiting Florida from out of  
16 state," and it's got a list of states.

17 A. Mm-hmm.

18 Q. Do you see that?

19 A. I do.

20 Q. And it's Tennessee. Do you  
21 see that's included?

22 A. I do see that.

23 Q. Do you know which particular  
24 presentation this is describing?

1           A.       It appears to be a statement  
2       by Cathy Gallagher of DEA.

3           Q.       So this is what the Drug  
4       Enforcement Administration was telling  
5       your members at this conference, fair?

6           A.       Yes.

7                   MR. WEINSTEIN:  Objection to  
8       form.

9       BY MR. STEWART:

10          Q.       Do you see now, if you go  
11       down to -- there's a bullet, it's third  
12       bullet from the bottom.  The -- and it  
13       says, "DEA strongly recommending on-site  
14       visits to continue doing business with  
15       your customers."

16                   Do you see that?

17          A.       I do see it.

18          Q.       Okay.  So this is another  
19       statement that Ms. Gallagher made to your  
20       conference; is that right?

21                   MR. WEINSTEIN:  Objection to  
22       form.

23                   THE WITNESS:  This is --  
24       yeah, I don't know the answer to

1           that. These are someone else's  
2           notes of that conference. So I  
3           have no idea whether she said  
4           that. I'm sorry. Someone else's  
5           notes of that session.

6       BY MR. STEWART:

7           Q. Fair enough. Have you ever  
8           seen any notes of one of your sessions  
9           that described a statement by a DEA  
10          official and it turned out that the  
11          statement wasn't made?

12                 MR. WEINSTEIN: Objection to  
13          form.

14                 THE WITNESS: I've never  
15          seen notes like this from any of  
16          our sessions.

17       BY MR. STEWART:

18           Q. Figure a jury should be able  
19          to look at this and conclude that the DEA  
20          strongly recommended on-site visits to  
21          continue doing business with your  
22          customers?

23                 MR. WEINSTEIN: Mike, that's  
24          a legal question. That's not an

1 appropriate question.

2 MR. PYSER: Objection to  
3 form.

4 MR. STEWART: I see. You're  
5 saying from an evidentiary  
6 standpoint. I'll withdraw it.

7 BY MR. STEWART:

8 Q. What we know is that  
9 somebody taking notes with respect to  
10 this conference concluded that the DEA  
11 strongly recommended on-site visits to  
12 continue doing business with customers;  
13 is that fair?

14 MR. WEINSTEIN: Objection to  
15 form.

16 THE WITNESS: That's what it  
17 appears to what it says on the  
18 paper.

19 BY MR. STEWART:

20 Q. Okay. And I take it the  
21 notes that are taken at your conferences  
22 are intended to be reliable, right?

23 MR. WEINSTEIN: Objection to  
24 form.

1 THE WITNESS: I didn't take  
2 these notes. I don't know who  
3 take --

4 MR. WEINSTEIN: We don't  
5 even know if these are HDA notes.  
6 We don't know anything about these  
7 notes.

8 BY MR. STEWART:

9 Q. Okay. What's the answer?

10 A. I have no idea. We don't  
11 have notes taken of our events from our  
12 standpoint. Based on the way this is  
13 worded, this is not an HDMA document.

14 Q. Why do you say that?

15 A. Because it says, "I found  
16 the seminar to be informative,  
17 educational, worth the investment of time  
18 and expense." I personally, and nor any  
19 of our staff, have the expense of  
20 attending this event.

21 Q. You talked earlier about  
22 your own knowledge of the information  
23 that your distributors, that the  
24 distributors have. What about within

1     your organization? Distributors within  
2     your organization, I think you've already  
3     said, meet at times with manufacture --  
4     representatives of manufacturers of  
5     pharmaceuticals, fair?

6             A.     We have conferences where  
7     networking is possible, yes.

8             Q.     I mean, networking, among  
9     the various folks involved in the  
10    distribution of -- manufacturing and  
11    distribution --

12            A.     Manufacturing and  
13    distributors.

14            Q.     -- of pharmaceuticals,  
15    right?

16                   And I take it at some of  
17    these conferences, best practices for  
18    tracking and preventing diversion come  
19    up, right?

20                   MR. WEINSTEIN: Objection to  
21    form.

22                   THE WITNESS: Our  
23    distribution management conference  
24    is our largest event where we

1           invite DEA to present and various  
2           consultants who might have  
3           interpretations of how DEA  
4           enforces their regulations.

5                       So presumably they might  
6           talk about that in educational  
7           sessions there.

8       BY MR. STEWART:

9           Q.       If -- if --

10                   MR. STEWART: Let's take a  
11           five-minute break. I may have a  
12           few more questions.

13                   THE VIDEOGRAPHER: Okay.  
14           The time is 1:14 p.m. We're going  
15           off the record.

16                   (Short break.)

17                   THE VIDEOGRAPHER: The time  
18           is 1:22 p.m. We are back on the  
19           record.

20       BY MR. STEWART:

21           Q.       Do you remember talking  
22           about IMS data?

23           A.       I do.

24           Q.       Do you know where IMS gets

1     it's data that it then sells and  
2     distributes?

3                     MR. WEINSTEIN:  Objection to  
4                     form.  Foundation.

5                     THE WITNESS:  I don't know  
6                     specifically.  I believe they  
7                     source it from distributors and  
8                     parts of the dispensing community.

9     BY MR. STEWART:

10            Q.     And IMS data is used to  
11            identify what drugs are -- are prescribed  
12            by particular prescribers in particular  
13            regions?

14                    MR. WEINSTEIN:  Objection to  
15                    form.  Foundation.

16                    THE WITNESS:  I don't know  
17                    at that level.  The only IQVIA  
18                    data that I've ever seen as  
19                    presented in aggregate at a high  
20                    level.  These are the top ten  
21                    therapeutic categories, these are  
22                    the top ten generic drugs, top ten  
23                    generic manufacturers, that sort  
24                    of information.

1 BY MR. STEWART:

2 Q. You haven't seen it broken  
3 down by region, state and so forth?

4 A. I have not.

5 Q. And of your various members,  
6 the members of your organization, who  
7 uses IMS data?

8 MR. WEINSTEIN: Objection to  
9 form. Foundation.

10 THE WITNESS: I have no idea  
11 who has an arrangement with IMS --  
12 or IQVIA, excuse me.

13 BY MR. STEWART:

14 Q. You don't know which, if  
15 any, distributors use IMS data?

16 MR. WEINSTEIN: Same  
17 objections.

18 THE WITNESS: Correct.

19 BY MR. STEWART:

20 Q. You don't know which, if  
21 any, manufacturers use IMS data?

22 MR. WEINSTEIN: Same  
23 objections.

24 THE WITNESS: Correct.

1 BY MR. STEWART:

2 Q. Okay. You talked about a  
3 different type of data which was called  
4 chargeback data. Are you familiar with  
5 that term?

6 A. I'm familiar with that term.

7 Q. Okay. And is chargeback  
8 data the data that you talked about  
9 earlier that is acquired by manufacturers  
10 from distributors?

11 MS. MACKAY: Objection.

12 Foundation.

13 THE WITNESS: First of all,  
14 I don't think I specifically  
15 discussed chargeback data. But  
16 chargeback data is part of  
17 contract administration process.  
18 There is an EDI transaction that  
19 supports that. It is information  
20 that is shared back with the  
21 manufacturers to comply with the  
22 contractual relationship.

23 BY MR. STEWART:

24 Q. And you say comply with

1 contractual relationship. The point is,  
2 the manufacturers, they essentially pay  
3 distributors or compensate them to  
4 provide this chargeback data?

5 MR. WEINSTEIN: Objection to  
6 form. Foundation.

7 THE WITNESS: I don't  
8 know -- I don't know the specifics  
9 of that agreement.

10 BY MR. STEWART:

11 Q. Well, the reason you  
12 referred to it as contractual is because  
13 part of the contractual arrangements  
14 between pharmaceutical manufacturers and  
15 pharmaceutical distributors is -- are  
16 arrangements whereby the distributors  
17 provide chargeback data?

18 MR. WEINSTEIN: Objection to  
19 form. Foundation.

20 THE WITNESS: I actually  
21 think when we say contracts and  
22 chargebacks, it's the -- it's the  
23 contracts that manufacturers have  
24 with downstream customers that

1 facilitate the need for a  
2 chargeback.

3 BY MR. STEWART:

4 Q. Explain what you mean by  
5 that.

6 A. It's contract pricing  
7 offered by the manufacturer that may be  
8 different than the wholesale price that  
9 the -- the distributor buys it.

10 Q. But at the end of the day,  
11 does the distributors provide that  
12 information to manufacturers of  
13 pharmaceuticals?

14 MR. WEINSTEIN: Objection to  
15 form. Foundation.

16 THE WITNESS: In some cases.

17 BY MR. STEWART:

18 Q. Okay. And -- and when they  
19 do that, they don't do it as a favor.  
20 They do it as part of their contractual  
21 relationship with manufacturers, right?

22 MR. WEINSTEIN: Objection to  
23 form and foundation.

24 BY MR. STEWART:

1 Q. That's your understanding?

2 MR. WEINSTEIN: Same  
3 objections.

4 THE WITNESS: For  
5 facilitating those -- we are  
6 talking about two different kinds  
7 of contracts.

8 BY MR. STEWART:

9 Q. Okay. Tell me about that.

10 A. I just did. The contract --  
11 there is a contract manufacturer has with  
12 downstream dispensers. And that's the  
13 contract that needs to be fulfilled using  
14 chargeback data. Then that data is  
15 shared between the distributor and  
16 manufacturer if it's required to finish  
17 off that -- that chargeback  
18 administration.

19 Q. Tell me how practical, like  
20 what would the manufacturer need that  
21 data for?

22 MR. WEINSTEIN: Objection to  
23 form and foundation.

24 BY MR. STEWART:

1 Q. We are talking about the  
2 chargeback data that you just described.

3 MR. WEINSTEIN: Same  
4 objections.

5 THE WITNESS: It has to do  
6 with the -- the contract pricing  
7 of that medicine at a dispensing  
8 location.

9 BY MR. STEWART:

10 Q. Okay. What's a dispensing  
11 location, a pharmacy?

12 A. Generally a hospital or a  
13 pharmacy or a clinic or a long-term care  
14 facility.

15 Q. And for the manufacturers  
16 that are acquiring chargeback data, what  
17 they are getting, right, is they are  
18 getting detailed information about what  
19 pharmaceuticals are being sold at a  
20 particular pharmacy, at what price,  
21 right?

22 MR. WEINSTEIN: Objection.

23 BY MR. STEWART:

24 Q. Or hospital, or what have

1       you?

2                       MR. WEINSTEIN:  Objection to  
3               form.  Foundation.

4                       THE WITNESS:  Presumably.

5       BY MR. STEWART:

6               Q.       And chargeback data is a  
7       different set, chargeback data is a  
8       different set of information than IMS  
9       data, right?

10              A.       Correct.

11              Q.       Okay.  Chargeback data is  
12       produced by the distributors or gathered  
13       by the distributors, fair?

14                      MR. WEINSTEIN:  Objection to  
15              form.

16                      THE WITNESS:  Chargeback  
17       data is provided by the  
18       distributors to make themselves  
19       whole on the -- on the chargeback  
20       administration.

21       BY MR. STEWART:

22              Q.       The point is, the IMS data  
23       is -- is collected by this company, IMS?

24              A.       Correct.

1 Q. Now you can say IQ --

2 A. Which is now called IQVIA.

3 Q. IQVIA.

4 And so it's two sets of  
5 data --

6 A. That don't match.

7 Q. You say they don't match.  
8 Tell me why.

9 A. Because the distributors  
10 have direct customer relationships and  
11 IMS does not have the same direct access  
12 to all dispensers.

13 Q. All right. To get a full  
14 picture of what pills are going to what  
15 pharmacy, to what end users, you'd have  
16 to use IMS data and chargeback data,  
17 right?

18 MR. WEINSTEIN: Objection to  
19 form and foundation.

20 THE WITNESS: I don't know  
21 how manufacturers get that  
22 specific information.

23 BY MR. STEWART:

24 Q. So it's your understanding

1       that the manufacturers that are members  
2       of your organization typically will use  
3       chargeback data and they'll get IMS data?

4                   MR. WEINSTEIN:  Objection to  
5       form and foundation.

6                   THE WITNESS:  I am not  
7       aware.

8       BY MR. STEWART:

9                   Q.       Okay.  Is it your  
10      understanding that manufacturers do  
11      purchase IMS data?

12                  MR. WEINSTEIN:  Objection to  
13      form and foundation.

14                  THE WITNESS:  Some  
15      manufacturers do, yes.

16                  MR. WEINSTEIN:  If you can  
17      wait.

18      BY MR. STEWART:

19                  Q.       And I think it's fair to say  
20      it's industry practice, right, for  
21      manufacturers to get the chargeback data,  
22      right?

23                  MR. WEINSTEIN:  Objection to  
24      form and foundation.

1 THE WITNESS: Yes.

2 BY MR. STEWART:

3 Q. Do you know if your  
4 organization has ever put out a guideline  
5 that said, "Manufacturers, when you're  
6 trying to prevent diversion, you should  
7 look at both chargeback data and IMS  
8 data"?

9 MR. WEINSTEIN: Objection to  
10 form.

11 MS. MACKAY: Objection.  
12 Foundation.

13 BY MR. STEWART:

14 Q. Are you familiar with that?

15 A. No.

16 Q. Do you know if your  
17 organization has ever made any  
18 recommendation to any participants in the  
19 pharmaceutical industry, whether  
20 manufacturers or distributors or what  
21 have you, that identified which data  
22 streams they should use to limit or  
23 prevent diversion?

24 MR. WEINSTEIN: Objection to

1 form and to scope.

2 THE WITNESS: No.

3 MR. WEINSTEIN: Objection to  
4 scope to the whole line of  
5 questioning.

6 BY MR. STEWART:

7 Q. What information, from your  
8 knowledge, does the chargeback data have  
9 that you can't get from IMS data? Could  
10 you explain that more precisely?

11 MR. WEINSTEIN: Objection to  
12 form.

13 THE WITNESS: Distributors  
14 that provide any sort of data back  
15 to the manufacturers that they  
16 work with, I believe, are  
17 providing data that is relative to  
18 their customer base.

19 IMS has a -- has broad  
20 access to general sales data, but  
21 there are parts of the industry  
22 that my understanding is they do  
23 not have similar type of access to  
24 data.

1                   So as an example, the VA.

2                   So there's parts of the government  
3                   perhaps that don't have a  
4                   relationship with IQVIA, my  
5                   understanding. I'm not sure  
6                   exactly. But there's parts of the  
7                   industry that do not provide data  
8                   back to IQVIA.

9       BY MR. STEWART:

10           Q.       So the chargeback data fills  
11           in the gaps for those particular --

12           A.       It could --

13                   MR. WEINSTEIN: Objection to  
14                   form.

15                   THE WITNESS: -- when  
16                   there -- when there is a  
17                   chargeback.

18       BY MR. STEWART:

19           Q.       Okay. The point is, that's  
20           an area where chargeback data might  
21           provide information that's not available  
22           from IMS?

23                   MR. WEINSTEIN: Objection to  
24                   form and foundation.

1 THE WITNESS: Presumably. I  
2 don't know.

3 BY MR. STEWART:

4 Q. Okay. Can you tell me --  
5 remind me what you know about the use of  
6 chargeback data to identify suspicious  
7 orders.

8 MR. WEINSTEIN: Objection.

9 BY MR. STEWART:

10 Q. What is your familiarity  
11 with that process?

12 MR. WEINSTEIN: Objection to  
13 form.

14 THE WITNESS: I don't know  
15 anything specific about that.

16 BY MR. STEWART:

17 Q. So you don't know what  
18 characterizes a specific order within  
19 chargeback data?

20 MR. WEINSTEIN: Objection to  
21 form.

22 THE WITNESS: No.

23 BY MR. STEWART:

24 Q. Okay. You said that you

1       were the organization's -- your  
2       organization's, the person most  
3       knowledgeable about IMS. What about IMS  
4       data? What's your familiarity with how  
5       one would use IMS data to identify  
6       suspicious orders of pharmaceuticals?

7                       MR. WEINSTEIN: Objection to  
8       form.

9                       THE WITNESS: I have no  
10      idea.

11     BY MR. STEWART:

12               Q.     That's not something that  
13     you're involved in?

14               A.     I have not been involved  
15     with any unique products or services that  
16     they offer directly to the industry.

17               Q.     So when you say that, you're  
18     not familiar with IMS's products that  
19     it's offering to the industry that your  
20     organization represents?

21                       MR. WEINSTEIN: Objection to  
22      form.

23     BY MR. STEWART:

24               Q.     How does that work?

1 MR. WEINSTEIN: Same  
2 objection.

3 THE WITNESS: I don't  
4 understand your question.

5 BY MR. STEWART:

6 Q. I'm just trying to figure  
7 out. You said that you don't -- you have  
8 some limited knowledge of IMS data or of  
9 IMS products, but if you're the person in  
10 the organization that's most familiar  
11 with IMS, why wouldn't you know about  
12 IMS's products that it offers to your --

13 A. No one in our  
14 organization --

15 MR. WEINSTEIN: Objection to  
16 form.

17 THE WITNESS: -- would know  
18 that.

19 BY MR. STEWART:

20 Q. Okay. That wouldn't --

21 A. We don't -- we don't buy any  
22 of the products or services from IMS.

23 Q. Has your organization itself  
24 conducted investigations of diversion of

1       opioids?

2                       MR. WEINSTEIN:  Objection to  
3                       form and to scope.

4                       THE WITNESS:  Not to my  
5                       knowledge.

6       BY MR. STEWART:

7               Q.       Has your organization  
8       itself, the HDA, ever funded an analysis  
9       of opioid diversion in the United States,  
10      where it's occurring, and how it might be  
11      addressed?

12                      MR. WEINSTEIN:  Objection to  
13                      scope.

14                      THE WITNESS:  Other than  
15                      presumably the Avalere report,  
16                      which we showed earlier, not to my  
17                      knowledge.

18       BY MR. STEWART:

19               Q.       Has your organization itself  
20       ever conducted inquiries with your  
21       members to determine whether or not they  
22       were adhering to best practices with  
23       respect to preventing diversion?

24                      MR. WEINSTEIN:  Objection to

1 form. Scope.

2 THE WITNESS: Not to my  
3 knowledge.

4 BY MR. STEWART:

5 Q. Has your organization ever  
6 taken any step of any kind to limit or  
7 prevent diversion of opioids in the  
8 United States?

9 MR. WEINSTEIN: Objection to  
10 form, foundation, and scope.

11 THE WITNESS: I think I said  
12 this earlier. We've supported  
13 AAOA, which is providing education  
14 to patients about the dangers of  
15 abuse and safe medicine disposal.

16 BY MR. STEWART:

17 Q. So those are the two things  
18 that your organization, representing all  
19 the major drug distributors in the  
20 country, has done to combat the opioid  
21 crisis?

22 MR. WEINSTEIN: Objection to  
23 form, foundation, and scope.

24 THE WITNESS: Those are two

1 things that I'm familiar with.

2 BY MR. STEWART:

3 Q. Are you familiar with any  
4 other thing? Now is the time to say.

5 MR. WEINSTEIN: Same  
6 objections.

7 THE WITNESS: I am not.

8 MR. WEINSTEIN: Did you  
9 finish your answer there?

10 THE WITNESS: I did.

11 BY MR. STEWART:

12 Q. Have you ever had a  
13 discussion within your organization to  
14 determine whether a member had broken the  
15 law?

16 A. No.

17 Q. Have you ever had a  
18 discussion within your organization to  
19 evaluate whether a member had not taken  
20 required steps to notify the DEA, the  
21 U.S. Drug Enforcement Administration, of  
22 suspicious orders?

23 A. No.

24 Q. Have you ever had a

1 discussion within your organization to  
2 determine whether or not a particular  
3 member was involved in the diversion of  
4 drugs into the illegal drug market?

5 A. No.

6 Q. Has your organization ever  
7 conducted an effort to evaluate the size  
8 and scope of the market for diverted  
9 drugs in any particular community?

10 A. No.

11 MR. STEWART: That's all  
12 I've got. Thank you.

13 THE WITNESS: Thank you.

14 THE VIDEOGRAPHER: The time  
15 is 1:35 p.m. We are going off the  
16 record.

17 MR. PYSER: No questions  
18 from any of the defendants.

19 MR. WEINSTEIN: And actually  
20 I'd like to just request the  
21 transcript be designated  
22 confidential, the entire thing.

23 MR. MALLOY: On behalf of  
24 Mallinckrodt, we would like to

1 object to the documents that were  
2 just used. We weren't provided  
3 any advanced notice that they were  
4 going to be used.

5 MR. TELLIS: Oh behalf of  
6 who?

7 MR. MALLOY: Mallinckrodt.

8 MR. STEWART: Mallinckrodt.  
9 Yeah, this is Mike Stewart for the  
10 Tennessee plaintiffs. Go back and  
11 review your materials. You were  
12 provided with notice. But in any  
13 event, duly noted.

14 (Excused.)

15 (Deposition concluded at  
16 approximately 1:37 p.m.)

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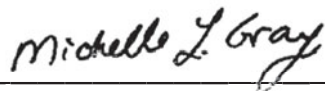
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1  
2 CERTIFICATE  
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5 I HEREBY CERTIFY that the  
6 witness was duly sworn by me and that the  
7 deposition is a true record of the  
8 testimony given by the witness.

9 It was requested before  
10 completion of the deposition that the  
11 witness, PERRY FRI, have the opportunity  
12 to read and sign the deposition  
13 transcript.

14  
15 

16 MICHELLE L. GRAY,  
17 A Registered Professional  
18 Reporter, Certified Shorthand  
19 Reporter, Certified Realtime  
20 Reporter and Notary Public  
21 Dated: May 8, 2019  
22  
23  
24

25 (The foregoing certification  
26 of this transcript does not apply to any  
27 reproduction of the same by any means,  
28 unless under the direct control and/or  
29 supervision of the certifying reporter.)  
30  
31  
32

1 INSTRUCTIONS TO WITNESS

2  
3 Please read your deposition  
4 over carefully and make any necessary  
5 corrections. You should state the reason  
6 in the appropriate space on the errata  
7 sheet for any corrections that are made.

8 After doing so, please sign  
9 the errata sheet and date it.

10 You are signing same subject  
11 to the changes you have noted on the  
12 errata sheet, which will be attached to  
13 your deposition.

14 It is imperative that you  
15 return the original errata sheet to the  
16 deposing attorney within thirty (30) days  
17 of receipt of the deposition transcript  
18 by you. If you fail to do so, the  
19 deposition transcript may be deemed to be  
20 accurate and may be used in court.

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4 PAGE LINE CHANGE

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1  
2 ACKNOWLEDGMENT OF DEPONENT

3  
4 I, \_\_\_\_\_, do  
5 hereby certify that I have read the  
6 foregoing pages, 1 - 230, and that the  
7 same is a correct transcription of the  
8 answers given by me to the questions  
9 therein propounded, except for the  
10 corrections or changes in form or  
11 substance, if any, noted in the attached  
12 Errata Sheet.

13  
14  
15 \_\_\_\_\_  
16 PERRY FRI

DATE

17  
18  
19 Subscribed and sworn  
to before me this

20 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

21 My commission expires: \_\_\_\_\_

22  
23 \_\_\_\_\_  
24 Notary Public

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